


Haines Borough
Borough Assembly Meeting #161
August 25, 2009
MINUTES

Approved

1. **CALL TO ORDER/PLEDGE TO THE FLAG** Mayor HILL 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 Jan HILL and Assembly Members Jerry LAPP, Pete LAPHAM, Douglas OLERUD, Norman SMITH, Scott ROSSMAN and Steve VICK.

Staff Present: Tom BOLEN/Borough Manager, Julie COZZI/Borough Clerk, Brad MAYNARD/Director of Public Facilities, Jila STUART/Chief Fiscal Officer, Debra SCHNABEL/Project Clerk, Gary LOWE/Chief of Police, and Stephanie SCOTT.

Visitors Present: Jessica EDWARDS/CVN, Greg STUCKEY, Bill and Libby KURZ, Leonard DUBBER, Sebastian O'KELLY (representing D.C. Lobbyist), Les HOSTETLER, Ray and Beckie CHAPIN, Janet KURZ, and others.

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

The following agenda change was requested:

- Remove Clerk's Report from the consent agenda

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

- *4. **APPROVAL OF MINUTES** - Regular: 8/11/09

5. **PUBLIC COMMENTS** - None

6. **MAYOR'S COMMENTS**

HILL thanked the assembly for excusing her from the previous meeting, and she recounted the Alaska Municipal League/Alaska Conference of Mayors Policy Meetings that she attended in Palmer. She said they were very worthwhile and added that both Governor Parnell and Senator Begich came by to speak to the attendees.

7. **PUBLIC HEARINGS**

- A. **Ordinance 09-07-212** - Second Hearing

An ordinance of the Haines Borough placing on the October 6, 2009 election ballot the question of exemption from the Alaska Public Official Financial Disclosure law (as 39.50).

Mayor HILL opened the public hearing at 6:37pm.

DUBBER said he is in favor of this but only if there is an effort to educate the community prior to the Election. He

said it seems to him that conflict of interest concerns are sometimes overused and actually can act as a hindrance to things getting done. Relationships are fairly well known in this small community.

Hearing no further comments, **HILL** closed the public hearing at 6:39pm.

Motion by **LAPHAM**: Adopt Ordinance 09-07-212. It was seconded by **LAPP**.

Motion to Amend by **LAPHAM**: Add to the ballot an explanation of the minimum financial reporting difference between the state (\$1,000) and local (\$5,000) guidelines. It was seconded by **SMITH**.

LAPP believes the ordinance explains the issues, and copies could be provided to the voters. **VICK** agreed with the motion and suggested that the \$1,000 and \$5,000 difference be placed in the yes and no vote explanations such as "a no vote would retain the \$1,000 requirement" and "a yes vote would change it to \$5,000." **OLERUD** said the issue is more complex than that, and public education would be more effective than trying to condense the differences into one or two sentences on the ballot. **LAPP** agreed with **OLERUD** that there are several differences, and this could confuse the voters even more.

The Amendment Motion failed 3 to 4 with **LAPP**, **SMITH**, and **OLERUD** opposed, and the mayor breaking the tie in the negative.

Motion to Amend by **OLERUD**: Change the ordinance to read *Proposition #2* since the ballot already contains a proposition #1. It was seconded by **LAPHAM**. The amendment motion carried unanimously.

The main motion carried unanimously in a roll call vote.

B. Ordinance 09-08-213 - First Hearing

An ordinance of the Haines Borough amending Haines Borough Code 3.70.040(D) to include the Lynn Canal Counseling Services Property in the list of tax-exempted properties.

Mayor **HILL** opened the public hearing at 6:49pm.

CHAPIN said thanked the assembly for their willingness to consider the tax-exemption request.

Hearing no further comments, **HILL** closed the public hearing at 6:50pm.

Motion by **OLERUD**: Advance Ordinance 09-08-213 to a second public hearing on September 8, 2009. It was seconded by **LAPHAM**. The motion carried unanimously.

B. Ordinance 09-08-215 - First Hearing

An ordinance of the Haines Borough amending Haines Borough Code Title 7 to change the process for expanding or reducing road maintenance service area boundaries.

Mayor **HILL** opened and closed the public hearing at 6:52pm; there were no comments.

Motion by **LAPP**: Advance Ordinance 09-08-215 to a second public hearing on September 8, 2009. It was seconded by **LAPHAM**. The motion carried unanimously.

8. STAFF REPORTS

A. Borough Manager

The manager summarized his written report that provided an update on various projects, activities, and departmental issues.

BOLEN introduced **KELLY** who works for the borough's federal lobbyist Brad Gilman. He is visiting Haines for a few days.

OLERUD said he has received complaints from fishermen that the fuel company is using gravity feed to dispense fuel because they don't have the proper nozzle; it's unacceptably slow. He asked the manager to get with the fuel company and harbor master to fix the situation for next year. **MAYNARD** explained that Anchor Electric, involved in the current harbor project, will provide an estimate to install a third pump, because there is a lot of electrical work involved. **OLERUD** asked if the nozzle will be changed, as well, since the fuel company won't pump it faster. **BOLEN** will check on the nozzle issue and sort it out. **LAPHAM** explained that two lines run out there and only one is being used. The fishermen sit there for three to four hours waiting for fuel. Even if it's only gravity feed right now, a second line would speed things up.

VICK brought up the petition recently received from several Lutak Road residents wanting lower speed limits. He wondered if the assembly should address this by resolution. **LAPHAM** said he would not support it and noted that it's a state road that was 40 mph prior to construction. It is uncertain, at this time, whether the speed limit will change following the road work.

SMITH referenced the public facilities report specifically

the Mosquito Lake Boiler Replacement item. He is alarmed by the high price. **BOLEN** agreed that it seems high. He went on to explain that there was an engineering estimate, and the project involves several related work items in addition to the boiler itself. **SMITH** would like to see this reevaluated before that much money is spent on it.

B. Borough Clerk

COZZI announced the final slate of candidates for the October 6, 2009 Haines Borough General Election subject to the 72-hour withdrawal period. The ballot information will be submitted to the printer and Accu-Vote programmers following that period.

***C. Chief Fiscal Officer**

***D. Chief of Police**

***E. Museum**

***F. Library**

***G. Chilkat Center**

9. COMMITTEE/COMMISSION/BOARD REPORTS

A. Commerce Committee

LAPHAM reported on the 8/20/09 committee meeting. The need for a Lutak port plan was discussed, and the committee recommends the manager contract with the McDowell Group to do a development plan/study. The other meeting topic was heliskiing. The mayor has been informed by the FAA that the borough has no control over helicopters once they lift off. Once off the ground, it is 100% FAA authority. The local government may encourage or recommend flight paths and certain elevations but cannot penalize those that don't follow them. The committee believes the borough code should be amended to remove that requirement. Additionally, they recommend that the heliski companies register their contracted helicopters with the borough with the pilots attending a pre-season meeting to be shown the permitted skiing areas and landing/takeoff locations. They would also be encouraged to fly along certain flight paths. Also recommended is a once-a-week or once every two weeks reporting requirement by the heliski operators during the season. Finally, the committee recommended that the borough clerk be given a "bank" of 1,000 additional skier (client) days to allocate as needed during the season, over and above the current 1,000 skier days allowed by code. **LAPP** said the extra days are intended to prevent another emergency ordinance situation. He explained that a *skier day equals a client* and no other businesses or tours have such client limits imposed on them. **LAPHAM** said the

committee would like staff to prepare a draft ordinance containing their recommendations for assembly consideration. **VICK** asked how the 1,000 extra skier days would work. **LAPHAM** responded that the heliski industry, when estimating needed skier days, figures on 60% flyable days during a typical season, but last year was nearly 100% since the weather was unusually good. Also, this industry is self-regulating because there are very few helicopters available. The season length would remain the same. Having extra days available would put more "butts in the seats" when there is an unusually good weather season. Most companies deal directly with the clerk. **VICK** said he believes the reason for the skier day limit is to cut down on things like noise pollution. He supports the skiing industry and wants them to succeed, but he needs more time to digest the idea of a skier day bank. **LAPHAM** noted that Haines is well-known worldwide as the primo extreme skiing destination---the best of the best. These are important considerations from the standpoint of tourism, economic development, and business. **BOLEN** said the attorney will be involved with Title 5 amendments.

B. Finance & Budget

LAPP reported on the 8/25/09 committee meeting. They discussed the borough's investments and would like the assembly to have a meeting with Alaska Permanent Capital Management. The committee recommends retirement of the \$635K Port Chilkoot Dock debt at a cost of only \$710. **STUART** suggested that staff be directed to contact the bond attorney, and then it will likely come to the assembly in resolution form. All agreed. **LAPP** said the committee also reviewed the draft citizen budget survey presented by staff. It should be a good tool to make the budget process go more smoothly next year. **STUART** explained the plan to mail the survey out in September and give people 30 days to return it. **LAPP** said the committee recommends pursuing acquisition of the Crystal Cathedrals water system. **BOLEN** explained the cost has been significantly reduced from the original asking price. He will get more details and hard numbers for the assembly's consideration. **LAPP** said the committee also discussed providing citizens with the option of paying property taxes with a credit card along with a 3.5% convenience fee, and they recommend staff pursue it.

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
 - *N. Service Area Boards
10. OLD BUSINESS - None
11. NEW BUSINESS
- A. Resolutions
 - 1. Resolution 09-08-167
A resolution of the Borough Assembly of the Haines Borough, Alaska, supporting the implementation of transportation strategies.

Motion by LAPP: Adopt Resolution 09-08-167. It was seconded by VICK.

SCHNABEL explained that several years ago the state required that any community wanting transportation mobility and access funds had to have a consolidated plan in place. The Transportation Task Force was formed, and the assembly adopted the consolidated plan in 2007. It enabled the funding for the Care-a-Van operated by Catholic Community Services and used by the Senior Citizens, Mental Health, REACH, SAIL, and people under 60 who are temporarily disabled. Every year, the authors of the Plan meet and gain a greater appreciation for community members who are disabled, elderly, or low-income and the need for transportation coordination. The Van needs to be scheduled, and having a mobility manager would help. There would be a call-in center and that manager would coordinate and schedule the Van and possibly other vehicles in the community that could be used for this type of service. The grant is up to \$50K over a 1 to 3 year period. LAPHAM asked if this would become a borough responsibility. SCHNABEL said the grant application stipulates that the community must show how it will be sustainable. The assumption is that the service is needed and would therefore be sustainable. The grant requires a 20% match. Half of that match is allowed to be *in-kind*, e.g. office space, equipment and supplies, or personnel supplied by the service provider. VICK said Haines Assisted Living might find some need for a service like this, as well. He asked if the task force expects buy-in from the providers in town. SCHNABEL said provider support was unanimous at the meeting. Currently some

programs are using program money to pay staff members to transport people in their personal vehicles. **LAPHAM** asked if this program has changed. **SCHNABEL** explained it is just growing. When the assembly approved the Plan, it was just meeting the basic criteria for Catholic Community Services to receive funds for the Care-a-Van. **STUART** asked if the borough's dispatchers could provide the service and qualify as *in-kind*. **SCHNABEL** said it's a good possibility to consider. **SMITH** said it sounds good, but he is concerned that this will be yet another grant program that would end up costing the borough down the road. He doesn't believe the local government should be involved in community transportation, and he's not sure this is the way to go about it. **LAPHAM** asked if the Care-a-Van would be affected if this resolution was not adopted. **SCHNABEL** said it would. **VICK** asked if the general public could be integrated into this right away if this resolution is adopted. **SCHNABEL** said realistically it would require more community dialogue but is within the realm of possibility.

The motion failed 2 to 4 in a roll call vote with **LAPP**, **LAPHAM**, **ROSSMAN**, and **SMITH** opposed.

2. Resolution 09-08-168

A resolution of the Borough Assembly authorizing the manager to provide an amount not to exceed \$400,000 to Chilkoote Indian Association (CIA) for purposes of financing water and sewer mains and related capital improvements at the Chilkoote Estates Subdivision, and related matters.

Motion by **VICK**: Adopt Resolution 09-08-168. It was seconded by **ROSSMAN**.

BOLEN explained the events that led up to this draft resolution. He's not convinced that this is the "magic bullet" yet and is troubled by the absence of the perfect fit of code language. As of today, the Bureau of Indian Affairs (BIA) is hesitant to recognize that the borough code requires a loan, and one of the Indian Reservation Roads (IRR) officials is troubled by it. He asked the CIA to put forth their preferred solution for the assembly's consideration. **STUCKEY** presented a substitute resolution containing a few changes. He proposes that it be considered a "grant" that the CIA would add 14% to rather than a "loan." He believes that will be a more acceptable arrangement to the Federal Highways Administration (FHA). He explained that the borough would only give funds to

the CIA after they have given funds to the borough. **ROSSMAN** spoke in favor of the resolution. **STUART** clarified that even though the IRR road inventory includes every borough road below 10-mile, the borough's road maintenance monies are restricted to the townsite service area. **STUCKEY** noted that this is a conditional resolution. He went on to explain that the CIA would get a bank loan in order to pay the borough \$1.2 million up front (including \$200K in interest) and then the borough would use general fund money to give a \$1 million "grant" to the CIA. The borough will get to move the money back into the general fund over time. **OLERUD** expressed discomfort with the hurdles that are raising red flags for him. **STUCKEY** reiterated that the resolution is conditional and all of the red flags would have to be addressed before money would ever be exchanged. **OLERUD** said he would rather all the red flags be dealt with prior to adopting the resolution, and he would like a clear answer from the FHA. **STUART** said there are IRR appropriations from previous years that are unspent, and she wondered if it would be available for a future year if that year was unfunded by the IRR. **STUCKEY** responded that they could be as long as the amount did not exceed 25% of the appropriation. **STUART** explained that the borough annually spends approximately \$225K on road maintenance. **OLERUD** asked what the attorney's reservations are with this arrangement. **BOLEN** said the attorney has concerns with IRR's poor reputation, as well as the mechanism being proposed. There are not very many governments crafting this type of agreement, and it is the type of thing that makes an attorney feel uncomfortable. He believes that calling it a loan is more fitting with the provisions of Title 13. There's also concern about setting a precedent for giving grants. **STUCKEY** noted that the A, B, C, and D conditions in the resolution were provided by the borough attorney. Title 13 says "any method of payment" and he believes a grant would fit that. And, even though it's called a "grant," it would really function like a loan with interest. **LAPP** asked if any of the planned subdivision will be tax-exempt. **STUCKEY** said the low-income housing units would be tribal-owned and tax exempt, but any property sold to tribal members would become taxable. **SMITH** asked what guarantee the borough would have that the CIA will remain solvent. The deal seems too good to be true to him. **STUCKEY** is confident that the tribe's condition is sound. CIA has tried to eliminate the risks and make it a highly

beneficial arrangement for the borough. The borough gets the money up front and all it has to do is report annually to the CIA how much road maintenance money to reimburse that could then go into the General Fund.

Motion to Amend by **VICK**: Amend by replacing it with the substitute resolution provided by the CIA. It was seconded by **LAPP**. The amendment motion carried unanimously.

Motion to Amend by **VICK**: Amend the resolution summary to read "amount not to exceed \$1.2m" instead of \$400K. It was seconded by **ROSSMAN**. The amendment motion carried unanimously.

OLERUD said he would like the attorney to see the amended resolution, and **VICK** agreed that the attorney needs to be involved.

The main motion carried 5 to 1 in a roll call vote with **SMITH** opposed.

B. Ordinances for Introduction

1. Ordinance 09-08-216

An ordinance of the Haines Borough amending Haines Borough Code Title 2 Section 2.12.050 to update the form of ordinances.

Motion by **LAPHAM**: Introduce Ordinance 09-08-216 and set a first public hearing for September 8, 2009. It was seconded by **LAPP**. The motion carried unanimously.

C. Other New Business

1. Public Works Shop Construction Phase IV

Motion by **LAPHAM**: Authorize the Borough Manager to contract with Stickler Construction to complete Phase IV of the new Public Works Shop construction project for an amount not to exceed \$126,800. It was seconded by **ROSSMAN**.

SMITH asked how much money is wrapped up in the total shop project. **STUART** responded approximately \$450K. **SMITH** asked if the new shop will have the recycled oil heater like the old one. **MAYNARD** said the heater will likely be moved over to supplement the in-floor heating. **ROSSMAN** believes it is currently in use at the sewer plant. **BOLEN** said a part of the old shop is housing a portion of the public facilities department. The primary concern is to reduce the costs of that building by heating only the small portion in use. **OLERUD** commented that the borough is like a pack-rat in that it builds new things and never seems to get rid of the old.

The motion carried unanimously in a roll call vote.

2. Chilkat Center Pedestrian Bridge Construction

Motion by **LAPP**: Authorize the Borough Manager to contract with Henry Construction for construction of the pedestrian bridge at the Chilkat Center for an amount not to exceed \$49,500. It was seconded by **LAPHAM**. The motion carried unanimously in a roll call vote.

3. 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 6th financial disclosure ballot measure. It was seconded by **LAPP**.

OLERUD suggested getting education/promo materials from other communities who have been successful with their exemption efforts.

The motion carried unanimously in a roll call vote.

4. Energy & Sustainability Commission

VICK said the Energy and Sustainability Commission (ESC) was established for a one-year period that has now ended. The ESC has asked for a two-month extension and an additional not-to-exceed 40 hours for the Energy Coordinator in order to complete some tasks and attend some events including the Southeast Conference Annual Meeting in Haines.

Motion by **VICK**: Extend the ESC for two months and extend the ESC Coordinator contract for an additional 40 hours. It was seconded by **LAPHAM**. The motion carried unanimously in a roll call vote.

12. CORRESPONDENCE - None

13. SET MEETING DATES

Thursday, 9/24, 6:00pm: Two-hour committee-of-the-whole meeting to discuss borough investments with Alaska Permanent Capital Management. The mayor will pay for pizza out of her discretionary fund.

14. PUBLIC COMMENTS

SCOTT said she was very impressed with the discussion the assembly had with **STUCKEY**. She wondered if this might be new ground in government to government cooperation and thinks it should be advertised.

B.KURZ appreciated the Commerce Committee report and said it's very important to treat businesses equally.

STUCKEY thanked the assembly for adopting Resolution 09-08-168

and pointed out that he will always be willing to look at ways to return that money to the borough's general fund more quickly. He suggested that the public works shop upgrades or maintenance might possibly qualify for IRR reimbursement.

15. ANNOUNCEMENTS/ASSEMBLY COMMENTS

ROSSMAN said a policy dealing with conflicts of interest is needed. **HILL** said requirements are in the borough code as well as Robert's Rules of Procedure. **LAPP** explained that it is up to the individual member to declare a potential conflict of interest and then the mayor rules on it. **BOLEN** and **HILL** said they will research policies and have the borough attorney weigh in on the topic, as well.

16. ADJOURNMENT - 9:32pm

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

ATTEST:

Janice Hill, Mayor

Julie Cozzi, Borough Clerk