

Haines Borough
Borough Assembly Special Meeting
September 29, 2009

MINUTES

APPROVED

THE MAYOR CALLED THIS SPECIAL MEETING FOR THE SOLE PURPOSE OF RECONSIDERING THE MOTION TO CONTINUE THE MANAGER'S EMPLOYMENT WITHOUT A CONTRACT. NO OTHER ISSUES WERE CONSIDERED AT THIS MEETING.

1. CALL TO ORDER/PLEDGE TO THE FLAG:

Mayor **HILL** called the meeting to order at 7:12pm in the Assembly Chambers of the Public Safety Building and led the pledge to the flag.

2. ROLL CALL:

Present: Mayor Jan **HILL** and Assembly Members Norm **SMITH**, Scott **ROSSMAN**, Steve **VICK**, Jerry **LAPP**, Pete **LAPHAM** (via teleconference), and Doug **OLERUD** (via teleconference).

Staff Present: Tom **BOLEN**/Borough Manager (via teleconference), Julie **COZZI**/Borough Clerk, Jamie **HEINZ**/Deputy Clerk, Jila **STUART**/Chief Fiscal Officer, Gary **LOWE**/Chief of Police, Brad **MAYNARD**/Director of Public Facilities, Jerrie **CLARKE**/Museum Director, Bruce **SMITH**/Public Works Superintendent, and Michael **GATTI**/Borough Attorney (via teleconference)

Visitors Present: Jessica **EDWARDS**/CVN, Tara **BICKNELL**/KHNS, Suzanne **VUILLET-SMITH**, Heather **LENDE**, Norman **HUGHES**, Ann **MYREN**, Tim **MCDONOUGH**, Bill and Libby **KURZ**, Deborah **VOGT**, Anne **HANSSEN**, Pam **RANGLES**, Jack **WENNER**, Liz **HEYWOOD**, Ron **JACKSON**, Tim **JUNE**, Norman **BLANK**, Diane **LACOURSE**, Joanne **WATERMAN**, Arthur **JESS**, Mike **DENKER**, Patty **CAMPBELL**, George **FIGDOR**, Mark **COZZI**, Mike **SAUNDERS**, Rob **GOLDBERG**, Carol **TYNMAN**, Michael **AHMUTY**, Dan **EGOLF**, Ray **STASKA**, Sara **CHAPPELL**, and others.

3. APPROVAL OF SPECIAL MEETING AGENDA

The mayor requested to add comments by **GATTI** and **BOLEN** after this agenda item.

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

GATTI gave an overview of the meeting's purpose and recommended the assembly agree to reconsider the 9/22 motion, reject the reconsidered motion, and make a new motion to accept the manager's resignation. He explained that **BOLEN** has other commitments and cannot stay for the whole meeting. **BOLEN** said he concurs with the attorney's recommendation concerning the severance and release agreement. He signed his part of the proposed agreement in the attorney's office today.

Motion by **LAPHAM**: Suspend the rules and move Item 4 Public Comments to follow Item 5 Business. It was seconded by **OLERUD**. The motion carried 4-3 with **VICK**, **ROSSMAN**, and **SMITH** opposed and the mayor breaking the tie in the affirmative.

4. PUBLIC COMMENTS – moved to follow Item 5 Business

5. BUSINESS

A. RECONSIDER THE FOLLOWING MOTION:

"Retain the manager on a non-contractual basis as interim manager until hire of a new manager, dismissal by the assembly, or his own decision to leave the position."

Motion by **LAPP**: Move to reconsider the 9/22 motion to retain the manager on a non-contractual basis as interim manager until hire of a new manager, dismissal by the assembly, or his own decision to leave the position. It was seconded by **OLERUD**. The motion carried 3-4 with **SMITH**, **VICK**, and **ROSSMAN** opposed and the mayor breaking the tie in the affirmative. This brought the 9/22 motion once again before the assembly.

Motion to amend by **SMITH**: Remove all text beyond "hire of new manager." It was seconded by **VICK**.

ROSSMAN asked if **BOLEN** is even interested in being interim manager. **BOLEN** believes it is prudent for him to resign.

Motion to amend the amendment by **SMITH**: Add the words "until after the October 6th Election and the votes are canvassed." It was seconded by **ROSSMAN**. The motion to amend the amendment failed 3-4 with **OLERUD**, **LAPP**, and **LAPHAM** opposed and the mayor breaking the tie in the negative.

The amendment motion failed 3-4 in a roll call vote with **OLERUD**, **LAPP**, and **LAPHAM** opposed and the mayor breaking the tie in the negative.

Motion by **OLERUD**: Call for the question. **ROSSMAN** said he would like an opportunity to ask a question as part of discussion. The motion to take the main motion to a vote failed 3-4 with **VICK**, **ROSSMAN**, and **SMITH** opposed and the mayor breaking the tie in the negative in order to allow discussion to take place.

ROSSMAN asked if anyone has seen a resignation and he wondered about the details. The mayor explained that it will come up under the next item. She said **BOLEN** submitted his resignation before he left town.

The main motion (the reconsidered 9/22 motion) failed 3-4 in a roll call vote with **SMITH**, **VICK**, and **ROSSMAN** opposed and the mayor breaking the tie in the negative.

B. ACCEPT THE MANAGER'S RESIGNATION

Motion by **LAPP**: Accept Tom Bolen's resignation effective September 29, 2009; authorize the mayor to execute a severance and release agreement including compensation in the amount of \$23,749.98 representing three months of his annual salary; and waive the manager's 60-day notice under his current contract. It was seconded by **LAPHAM**.

ROSSMAN asked why the severance amount is being proposed. He does not understand the reasoning since the manager's contract is done tomorrow. Why should that amount of money be paid to someone for doing nothing over the next three months? **HILL** said **BOLEN** submitted his resignation and met with the borough attorney in Anchorage where they agreed on the severance agreement. **GATTI** explained that a severance and release agreement is fairly standard in cases of termination/resignation of city or borough managers. In light of the circumstances and in order to settle the issue affirmatively, **BOLEN** has agreed to resign in exchange for an acceptable severance agreement in order to move

forward. He believes this is a reasonable course of action that is in the best interests of the borough, the manager, and the community. He strongly recommends that the assembly pass this motion so that everyone can move on. **ROSSMAN** does not believe these are good reasons. Since the contract expires tomorrow, everyone just needs to go on. He doesn't want to just give the taxpayers' money away. **GATTI** said another reason is that in the event of a termination without cause, the manager would get severance pay anyway. He believes this agreement provides value to the borough. **VICK** said he can understand why **BOLEN** would agree to this but does not know why the borough would. He agreed with **ROSSMAN** and does not see what the rush was to have a special meeting on this. He questioned the events that led up to the resignation and agreement, and he accused the mayor and the attorney of holding secret meetings. **HILL** took great exception that there was a secret meeting. She said she was called into the office on Friday to participate in a teleconference with the attorney and the manager to discuss possible next steps in light of the assembly's actions at the 9/22 meeting. She was informed today that the attorney and manager met today to work on a severance agreement and that **BOLEN** had signed it. She added that she was unaware of the manager's resignation before Monday morning when she stopped in at the office. **SMITH** agreed with **ROSSMAN** and **VICK** and said there is an obvious split in the assembly, and he suspects something rotten is going on that three assembly members don't know about. He claimed that the manager got a "B" grade on his mid-contract evaluation, and bewilderingly dropped to a "D" only three months later. **VICK** believes there is conflicting information, and agrees with **SMITH** that some of the assembly members are obviously in the dark about some things. [At 7:46, **OLERUD** informed the mayor that the flight attendant was making him turn off his phone because the plane he was on was getting ready to depart. He apologized for having to leave the meeting.] **LAPP** noted the last manager was given severance pay in exchange for a resignation. He does not see it as being any different.

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

Motion by **SMITH**: Retain the manager on a non-contractual basis as Interim Manager.

There was no second when **COZZI** expressed concern that the motion may not be in order since it is substantially like one that was defeated earlier in this session. **HILL** called a recess in order for the clerk to confer with the borough attorney about the matter. Following a lengthy recess, **COZZI** explained that after talking with the attorney, she had contacted a retired municipal clerk who is well versed in parliamentary procedure and was advised that this type of motion would likely be classified as an attempt to "renew a motion" and would not be in order during the same session. However, the presiding officer would make the final determination.

SMITH withdrew his motion.

Motion by **SMITH**: Offer Mr. Bolen the sum of \$23,749.98 to be paid under contract as acting manager for three months effective October 1, 2009. It was seconded by **VICK**. The motion failed 3-2 in a roll call vote with **LAPP** and **LAPHAM** opposed.

PUBLIC COMMENTS:

VUILLET-SMITH expressed concerns with the process. She questioned the integrity of the attorney and the advice he is giving to the assembly. There seems to be a desperation and information that is hidden.

GOLDBERG publicly thanked **BOLEN** for his work with the Planning Commission. He believes he is helpful, intelligent, and spent more time in the office than any manager ever has. Things have gotten done in the last year, and the borough is finally making progress. From his perspective, it seems like he is a good manager. He was shocked and disappointed to find out the assembly decided not to renew his contract. The public is owed more information than just that "it isn't a good fit."

SAUNDERS told a story about buying hip boots at Cabella's and ending up with two left boots. He went hunting anyway. He, too, needs a better reason than "not a good fit."

CHAPPELL said she moved to Haines from Anchorage 7 years ago. Haines is a wonderful place, but she has become disillusioned since the manager was not given a new contract. She appreciated working with him.

LENDE said she enjoyed working with **BOLEN** very much in her capacity as library board president. He's been helpful, thoughtful, and conservative.

BLANK said he very much resents the public not being able to speak before action was taken. He wanted to know if there was a "silence" issue. **HILL** said **BOLEN** agreed to keep confidential things confidential.

MCDONOUGH believes **BOLEN** got a lot done and he wanted to publicly state that.

STUART said she has worked closely with **BOLEN** for a year, and this is a particularly difficult thing for the assembly to deal with. It's a personnel matter. There is not a single doubt in her mind that the assembly has made the right decision.

WATERMAN said she cannot imagine what a hard decision the assembly is making, but she wants to know the reasons "why." It's hard for the public to accept. She's saddened about the long term affect this will have and spending a tremendous amount of money to search for another manager. It seems like a person would take at least two years to come up to speed.

AHMUTY publicly thanked **BOLEN** for his hard work to get the temporary restrooms finished and for attending many Tourism Advisory Board meetings. He wonders who in their right mind would take the job now.

WENNER is amazed at the polarization in the assembly and wonders if all of the assembly members are aware of the problems.

JURGELEIT-GREENE questioned why a compensation package would be offered when there is no evidence of malfeasance. She wonders what makes a good fit.

MAYNARD agreed with **STUART's** position. He spoke of the longevity of borough employees and said it's the strongest team he has ever worked with. As the borough moves forward, it's important to realize what a great team there is.

JUNE thanked Tom for his work. He hopes that the next meeting will see him rehired and willing to forgive. He also believes it was improper for someone leaving or possibly leaving after the election to vote on this. He also cautioned the mayor that suspending the rules is very dangerous and this evening's effort didn't accomplish anything. In his opinion, **BOLEN** played an even game and didn't play into politics.

HUGHES said he worked with a lot with **BOLEN**. He was available, approachable, and took time to talk and listen. He worked hard for the community. **HUGHES** picked up a deck

bucket and asked who's going to carry the water now. He believes the assembly just killed the harbor expansion project; the \$35 million project is going away because of this.

VOGT is struck by the huge difference in the comments between members of the public and borough employees. It seems like a very precipitous thing and distresses her very much. She believes **BOLEN** was a breath of fresh air.

JESS thanked **BOLEN** for the work he's done. He believes the new assembly will fix this so he can come back and work for Haines.

KURZ said he thinks a lot of **BOLEN** and believes the assembly is the problem.

LACOURSE said she is disturbed about the decision the assembly made concerning **BOLEN's** employment. He did an excellent job, and she was pleased with his performance, but she can't say the same about the assembly. She observed that there are two parties involved in any the conflict. It doesn't sound to her like the assembly worked with **BOLEN**. She believes judgments about other people are reflections of ourselves. When there is a personnel problem, there should be a willingness to help a person grow and get training. She said the assembly needs to "grow the next manager rather than canning them."

FIGDOR asked if the assembly made efforts to rectify the situation by helping to mediate the differences between the manager and staff. The mayor and assembly should be able to make a long list to show what was done to change the situation and make it all work out.

LOWE did not speak in favor or against. However, he said the projects that got accomplished and will get accomplished are because of the dedicated capable borough staff. There is a good team in place and he asked the assembly not to rush to rehire **BOLEN** or to hire a new manager.

JUNE asked if a copy of the severance agreement will be made available to the public. The clerk and mayor agreed to find out.

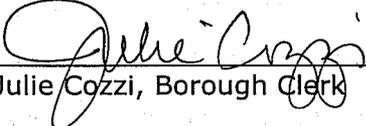
MAYNARD stated that this is not an employee problem. He echoed **LOWE's** comments that there is a strong team in place that has been responsible for getting things done.

HILL thanked everyone for their comments. She said it wasn't an easy process and apologized for any perceptions that things were not conducted properly in the meeting. Her efforts were to conduct the meeting fairly and properly. This was not a rush. **BOLEN** submitted his resignation and asked the borough to act on it. She's sorry for the disappointment that some citizens are feeling but obviously everyone doesn't always agree. Because many questions were asked pertaining to the personnel issues related to the Executive Session, she cannot respond to them. Discussion cannot be taken out of Executive Session. She asked everyone to be fair and to realize that there is information that the public doesn't have and won't have because it is a personnel matter.

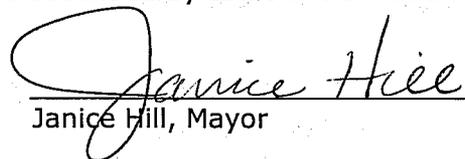
6. ADJOURNMENT – 8:53pm

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

ATTEST:


Julie Cozzi, Borough Clerk




Janice Hill, Mayor

