

**Haines Borough
Borough Assembly Meeting
Assembly Seat A Election Recount CANVASS October 27, 2009**

Approved

MINUTES

THIS WAS A SPECIAL MEETING HELD SOLELY FOR THE PURPOSE OF CANVASSING THE ASSEMBLY SEAT A ELECTION RECOUNT CONDUCTED ON SUNDAY, OCTOBER 25, 2009. NO OTHER BUSINESS WAS DISCUSSED.

1. **CALL TO ORDER:** Deputy Mayor Jerry **LAPP** (appointed presiding officer by the mayor) called the election canvass to order at 6:01 p.m. in the Assembly Chambers of the Public Safety Building and led the pledge to the flag.
2. **ROLL CALL Present:** Mayor Jan **HILL** (via teleconference), Deputy Mayor Jerry **LAPP**, and Assembly Members Norm **SMITH**, Douglas **OLERUD**, Steve **VICK**, Scott **ROSSMAN**, and Joanne **WATERMAN**.

Staff Present: Bob **Ward**/Interim Borough Manager, Julie **COZZI**/Borough Clerk, Jamie **HEINZ**/Deputy Clerk, and Gary **LOWE**/Chief of Police.

Visitors Present: Jessica **EDWARDS**/CVN, Pete and Diana **LAPHAM**, Karen **HESS**, Deborah **VOGT**, Daymond **HOFFMAN**, Gary **LIDHOLM**, Gershon **COHEN**, Les **HOSTETLER**, George **FIGDOR**, Roger and Barbara **MAYNARD**, Don **TURNER III**, Bill and Libby **KURZ**, and others.

3. ELECTION SUPERVISOR REPORT

4. CONSIDERATION OF UNCOUNTED BALLOTS

- A. **1 Absentee-by-Mail ballot received prior to Election Day and not applied for**
Election Supervisor's recommendation #1: This ballot is invalid per HBC 2.68.260 and should NOT be counted.

Motion by **OLERUD**: Accept the Election Supervisor's Recommendation not to count the absentee-by-mail ballot that was not applied for. It was seconded by **ROSSMAN**. The motion carried unanimously in a roll call vote.

- B. **5 Questioned ballots by improperly registered voters**
Election Supervisor's recommendation #2: These five ballots are invalid per HBC 2.68.120(A) and should NOT be counted.

Motion by **OLERUD**: Accept the Election Supervisor's Recommendation not to count the 5 questioned ballots by improperly registered voters. It was seconded by **ROSSMAN**.

SMITH asked for an opportunity to look at the ballot envelopes, and **COZZI** sent them around the dais.

The motion carried unanimously in a roll call vote.

- C. **2 Absentee-by-Mail ballots received after Election Day without a postmark**
Election Supervisor's recommendation #3: These two ballots are invalid per HBC 2.68.320 and should NOT be counted.

Motion by **OLERUD**: Accept the Election Supervisor's Recommendation not to count the 2 absentee-by-mail ballots received after Election Day without a postmark. It was seconded by **ROSSMAN**.

SMITH believes the clerk's recommendation is incorrect. He believes the ballots were obviously voted and mailed through the U.S. Postal Service. **VICK** observed that the canvass process is important. It's not so much *who* as *how*. Deliberateness is critical for future borough elections. He has great concerns about the clerk's recommendation and spoke against it. He believes it will be a mistake not to count these two ballots. **OLERUD** disagreed and read statements from the borough attorney's written opinion. **ROSSMAN** said it's an individual's responsibility to make sure

the absentee-by-mail ballot is postmarked. He compared it to mailing his tax return on April 15th when he always takes it to the post office counter to ask for a postmark. **VICK** disagreed and read pertinent excerpts from **VOGT**'s written response to the borough attorney's opinion. He said it should be enough to go by the date the witnesses signed the envelope. **OLERUD** said there has never been an instance when ballots received after Election Day with no postmark have been counted. He chooses to listen to the borough attorney. **WARD** clarified that there is no place on the borough's ballot envelope for dating the witness signatures.

ROSSMAN called for the question, and **SMITH** objected. The presiding officer (deputy mayor) called for a vote on whether or not to continue debate. The vote carried 4-2 with **OLERUD** and **LAPP** opposed, and debate continued.

SMITH read portions of the affidavits received from the two voters whose ballots were returned with no postmark, and he believes they should be counted. **ROSSMAN** disagreed. It was the responsibility of each voter to make sure the ballots contained a postmark. **OLERUD** said there are important procedures that are set up for good reasons. He said he was made aware of at least two people who arrived at the polls a few minutes too late to vote on Election Day. The ballots, voting machine, and workers were all still there, but they were not allowed to vote because of the requirement to vote by 8:00pm. They knew it was their responsibility to show up on time, so they did not claim that they are disenfranchised voters. **SMITH** expressed dissatisfaction that the borough attorney opinion came from one of his firm's associate attorneys.

The motion carried 4-2 in a roll call vote with **VICK** and **SMITH** opposed.

D. 3 Write-in votes without first and last name

Election Supervisor's recommendation #4: The intent of the voter in each case cannot be determined with reasonable certainty and therefore these three votes should not be counted.

Motion by **OLERUD**: Accept the Election Supervisor's Recommendation not to count the 3 write-in votes without a first and last name; "Hoffman" and "D. Hoffman". It was seconded by **ROSSMAN**.

VICK spoke against the clerk's recommendation, again citing some statements from **VOGT**'s opinion. **WATERMAN** believes as a small town, there is the ability to know that there is only one "D. Hoffman." **OLERUD** said he recommends upholding the borough attorney's opinion and the clerk's recommendation. **VICK** does not believe the attorney is representing the borough very well. **ROSSMAN** disagreed with **VICK** and spoke in favor of the clerk's recommendation. **LAPP** said in several past elections, the write-ins without a first and last name were not counted. **VICK** said the ballots should be counted. **OLERUD** said assumptions could be made but there is no reasonable certainty; the canvass board does not know 100% the intent of the voter. There were other D. Hoffman's voted for, and there are other Hoffman's in the area. **VICK** commented that only one Hoffman was running. **SMITH** said when a candidate files, they have to put in what their name will be on the ballot. **COZZI** clarified that **HOFFMAN** did not file during the candidate filing period but actually ran a write-in campaign. The borough has not had a procedure for write-in filings, and she simply notified **HOFFMAN**, as a courtesy, of the importance of contacting the Alaska Public Offices Commission to notify them for campaign finance disclosure reasons. **VICK** said the borough may have not previously counted write-ins without first and last names, but he believes it violates state law. **ROSSMAN** expressed amazement that anyone would argue that these 3 votes be counted since you cannot be absolutely certain of the voters' intent.

The motion carried 4-3 in a tie roll call vote with **WATERMAN**, **SMITH**, and **VICK** opposed and the mayor breaking the tie in the affirmative.

5. VOTE TALLY, IF APPLICABLE

There were no outstanding votes to be tallied, so this agenda item was unnecessary.

6. RESULTS READ BY THE ELECTION SUPERVISOR

COZZI read aloud the following Borough Assembly Seat A recount/canvass results for the record:

HOSTETLER	ELECTION	<u>48</u>	RECOUNT DIFF	<u>-1</u>	CANVASS	<u>0</u>	TOTAL	<u>47</u>
LIDHOLM	ELECTION	<u>438</u>	RECOUNT DIFF	<u>+1</u>	CANVASS	<u>0</u>	TOTAL	<u>439</u>
MENKE	ELECTION	<u>111</u>	RECOUNT DIFF	<u>+0</u>	CANVASS	<u>0</u>	TOTAL	<u>111</u>
WRITE-IN HOFFMAN	ELECTION	<u>433</u>	RECOUNT DIFF	<u>+4</u>	CANVASS	<u>0</u>	TOTAL	<u>437</u>
WRITE IN OTHER	ELECTION	<u>9</u>	RECOUNT DIFF	<u>-4</u>	CANVASS	<u>0</u>	TOTAL	<u>5</u>

LAPP thanked **COZZI** for her work.

7. ADJOURNMENT - 6:51 pm


Jerry Lapp, Deputy Mayor

ATTEST:


Julie Cozzi, Borough Clerk



