

Haines Borough
Borough Assembly Meeting #170
January 19, 2010

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 Janice **HILL** and Assembly Members Jerry **LAPP**, Joanne **WATERMAN**, Scott **ROSSMAN**, Steve **VICK**, and Daymond **HOFFMAN** and Norman **SMITH** (both by teleconference).

Staff Present: Mark **EARNEST**/Borough Manager, Julie **COZZI**/Borough Clerk, Gary **LOWE**/Chief of Police, Jila **STUART**/Chief Fiscal Officer, Brad **MAYNARD**/Director of Public Facilities, and Jerrie **CLARKE**/Museum Director.

Visitors Present: Jessica **EDWARDS**/CVN, Carolyn **WEISHAHN**, Deborah **VOGT**, Roger **MAYNARD**, Stacie and Don **TURNER III**, Kip **KERMOIAN**, Libby and Bill **KURZ**, Scott **CAREY**, Eric **HOLLE**, Katy **PALMER**, Scott **SUNDBERG**, Pete and Diana **LAPHAM**, Heidi **ROBICHAUD**, Kerry and Joyce **TOWN**, Sean **CONE**, John **WINGE**, Randy **JACKSON**, Dean **RISLEY**, Janet **KURZ**, Tyler **FERRIN**, Chris **BROOKS**, Gary **HESS**, Joanie **WAGNER**, Rob. **GOLDBERG**/Planning Commission Vice-Chair, Toni **DEWITT**, Laurie **DADOURIAN**, and others.

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

Motion: **LAPP** moved to "approve the Agenda/Consent Agenda." Amended to pull Finance report and ESC from the consent agenda, and the motion carried unanimously.

* 4. **APPROVAL OF MINUTES** – None

5. **PUBLIC COMMENTS**

VOGT spoke against the borough attorney's performance, especially regarding the advice given to the 2009 Election canvass board. She provided a written memo to the assembly members.

WEISHAHN expressed concern that the last heli-ski ordinance public hearing was not conducted in a respectful manner and reminded the assembly that borough code requires it.

P. LAPHAM asked the assembly to reconsider the idea of adding a fitness center addition onto the pool. He believes it will end up being another considerable public tax burden.

B. KURZ believes the matter of Chilkat Center building ownership is questionable, and it should not be on the legislative priorities list for repairs.

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

HILL introduced **EARNEST** and welcomed him to Haines. She thanked the citizens for attending and or understanding her decision to reschedule this meeting from January 12th. It was in the interest of public safety because of the severe winter storm conditions.

The mayor outlined the rules for the public meetings and hearings as required by borough code and general decorum, including the importance of respect, the enforcement of the three-minute speaking limit rule, and the necessity of addressing all comments to the mayor and assembly.

7. **PUBLIC HEARINGS**

A. **Rehearing on Appeal of a Planning Commission Decision**

Turner Gravel Pit Conditional Use Permit Renewal

Mayor **HILL** opened the public hearing at 6:50pm.

RISLEY, **WINGE**, **D.LAPHAM**, and **P.LAPHAM** spoke in support of Turner's gravel pit operation and the planning commission's decision to renew the gravel pit conditional use permit.

D. TURNER, gravel pit owner, asked the assembly to uphold the planning commission's decision. He believes the appellant's issues have been addressed. This is the fifth conditional use permit he has applied for, and each one has been approved by a different planning commission. He doesn't believe they have erred five times. His company has made concessions including adherence to restrictive operating times, and he believes all of the appellant's questions have been addressed.

WAGNER spoke against the planning commission's decision to renew the conditional use permit. She said Turner has two gravel pits along Allen Road, and only one is regulated. This is a quiet residential area, and she believes her property has reduced in value. Additionally, Allen Road is too narrow for this type of truck activity, and she thinks there are serious safety and noise issues.

GOLDBERG, speaking as vice-chairman of the planning commission, said he has served on the planning commission through three Turner gravel pit conditional use decisions. Ideally, there would not be heavy industrial operation next to a residential neighborhood, but there is no alternative source of gravel so the commissioners decided to let the permit stand. The commission has tried to remedy some of the resident concerns by putting various conditions on the permit while still allowing the Turners to stay in business.

DEWITT, appellant, said she bought her property in 1990 before the new pit section adjoining her parcel was developed. She believes the pit has changed tremendously over the eleven years since the engineering report was done in 1998 and expressed great frustration that her concerns have never been considered including ground water, hazardous slope, noise, traffic safety, and property value. It is also her understanding that the pit owner has never submitted a required reclamation plan. She offered to answer questions.

Hearing no further comments, the mayor closed the public hearing at 7:11pm.

Motion: WATERMAN moved and it was amended to read "the assembly finds that not enough evidence was brought before the assembly to overturn the planning commission's decision on the conditional use permit, and therefore upholds the permit renewal; and furthermore instructs the planning commission and staff to 1) seek the advice of the Department of Natural Resources as to whether this permit requires a reclamation plan and 2) provide a written review of the Haines Coastal Management Plan (HCMP) and Alaska Statute 27.19 regarding this permit's compliance.

GOLDBERG said in previous hearings, the commission considered hazardous slope conditions and believes some mitigation has taken place, but perhaps it's time for another inspection. He added that the main reason the commission renewed it again is that during the hearing everyone stated the company was adhering to the permit conditions. **TURNER** said a small operation like his does not require a reclamation plan (under 50K yards a year and under 5 acres). He has filed a size and volume declaration form with the state.

The main motion carried unanimously in a roll call vote.

B. Ordinance 09-12-220 – Second Public Hearing

An ordinance of the Haines Borough amending Haines Borough code Title 5 section 5.18.080 to amend the heli-ski reporting requirements, add a preseason meeting requirement, and add a provision for additional skier days.

Mayor **HILL** opened the public hearing at 7:35pm.

CONE, RISLEY, B. KURZ, WINGE, D. HESS, K. HESS, and G.HESS spoke in support of the heli-ski industry and against overregulation which they believe this ordinance does.

WEISHAHN, DADOURIAN, PALMER, HOLLE, CAREY, and KERMOIAN all spoke to the need for heli-ski activities to be regulated and the importance of thorough GPS reporting as a way to verify permit compliance. Some also spoke against added skier days.

SUNDBERG, representing one of the heli-ski companies, said skier days don't adequately measure impact. He believes the borough is using the regulating wrong tools to regulate this industry. He asked for at least 1,500 skier days and said his company is willing to come to the table to seriously work on a noise abatement plan and other ways to address resident concerns.

Hearing no further public comments, the mayor closed the public hearing at 8:15pm and called a brief recess. The meeting reconvened 8:27pm

Motion: ROSSMAN moved to "adopt Ordinance 09-12-220," and it was subsequently amended as follows:

A.7. Heli-ski operators shall submit to the borough clerk, on forms provided by the Borough, bi-weekly use reports detailing daily activities. Heli-ski activity reports shall include GPS **track logs** ~~coordinates to showing~~ where all **flight paths**, landings and drop-offs **locations** of skiers and photographers occurred. **The logged coordinates shall be provided to the Borough on provided forms and via electronic media.**

C.1.c. During the season, additional skier days **for that season only** may be requested in writing and authorized by the borough assembly following a duly-noticed public hearing. **Additional days are contingent upon operator permit compliance.**

5. A heli-ski permittee shall register contracted helicopters, **their N number, color scheme, and the pilot's name,** with the borough.

During the assembly discussion, it was expressed that the community needs to come together to work on this issue. Some citizens on both sides have said "prove it," and the assembly has been put in the position of doing just that. Most of the assembly believes GPS reporting will benefit both sides of the issue and, while not perfect, this ordinance is a good compromise. **LAPP** is not in favor of the ordinance because it is so different from what the Commerce Committee recommended. He was adamant that heli-skiing is not a tour but a commercial recreational activity with helicopters providing transportation.

The motion to adopt the ordinance, as amended, carried 5-1 in a roll call vote with **LAPP** opposed.

SMITH left the meeting at this point - 8:48pm.

C. Ordinance 09-12-221 – First Public Hearing

An ordinance of the Haines Borough readopting, by ordinance, the existing water-sewer rate schedule including the current rates, fees and charges for water and sewer services.

Mayor **HILL** opened and closed the public hearing at 8:49pm; there were no public comments.

Motion: LAPP moved to "advance Ordinance 09-12-221 to a second public hearing on January 26, 2010." The motion carried unanimously. There was no discussion.

8. STAFF REPORTS

A. Borough Manager

EARNEST expressed appreciation to the mayor and assembly for the opportunity to be the borough manager. He and his family are happy to be here, and he looks forward to the challenges and opportunities ahead.

- * 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 and Labor Relations
- 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 – None
- B. Ordinances for Introduction

1. **Ordinance 10-01-222**

An ordinance of the Haines Borough, providing for the addition or amendment of specific line items to the FY10 budget.

Motion: LAPP moved to "introduce Ordinance 10-01-222 and set a first public hearing for January 26, 2010." There was no discussion, and the motion carried unanimously.

C. Other New Business

* 1. **Liquor License Renewals**

The assembly had no objection to the following license renewal applications:

Pioneer Bar
33-Mile Roadhouse

2. **2010 Legislative Priorities**

Motion: LAPP moved to "adopt the 2010 list of legislative priorities," and it was amended to change the word "Demolition" in the Human Resource Building item to "Disposal" in order to accommodate either sale or demolition, as ultimately decided.

ROSSMAN wondered if there is really a need to add to the list the two harbor items valued at only \$20K and \$6K. **EARNEST** responded that the assembly should look at the appropriateness of legislative funding requests, and he doesn't believe these two items rise to that funding level. He offered to look for others sources of funds and come back to the assembly with a plan. All agreed.

Regarding the former elementary school item on the list having no dollar amount tied to it, **B. MAYNARD** explained the engineer who will provide an order of magnitude number was unable to make it to town as scheduled due to weather. After some discussion, the assembly agreed to keep the item on the list for as long as possible in case the engineer is able to provide a number in time. Some assembly members would like the Human Resource Building to be sold, and **EARNEST** will look into whether it can be sold "as is" (with unabated asbestos).

The motion carried unanimously in a roll call vote.

3. **Surplus Equipment**

Declare the items listed on the "2009 Surplus and Obsolete Items" list as surplus and obsolete, and authorize the Chief Fiscal Officer to sell, trade, or otherwise dispose of the items.

Motion: **ROSSMAN** moved to "declare the items listed on the "2009 Surplus and Obsolete Items" list as surplus and obsolete, and authorize the Chief Fiscal Officer to sell, trade, or otherwise dispose of the items."

The assembly would like the items to first be offered locally via sealed bid or garage sale and put minimums on the higher valued items.

The motion carried unanimously in a roll call vote.

Motion: **VICK** moved to suspend the rules to move Item 14-Public Comments to this point in the agenda, ahead of the Executive Session, and the motion carried unanimously.

VOGT said she is struck by the common thread through many assembly agenda items involving use conflicts and suggested it might be time for the assembly to get the community involved in resolving some of these issues, e.g. gravel pits within the townsite.

4. **EXECUTIVE SESSION** – The Assembly, upon motion, will move into executive session to discuss the performance of the borough attorney the immediate knowledge of which would tend to prejudice the reputation and character of those persons involved. AS 44.62.310(C)(2). The attorney did not request a public discussion.

Motion: **LAPP** moved to “move into executive session to discuss the performance of the borough attorney the immediate knowledge of which would tend to prejudice the reputation and character of those persons involved as provided by Alaska Statute 44.62.310(C)(2),” and the motion carried unanimously.

HOFFMAN left the meeting at this point - 9:20pm.

Present: Mayor Hill; Assembly Members Lapp, Waterman, Vick, Rossman; Borough Manager Earnest; CFO Jila Stuart; and Borough Clerk Cozzi. The executive session convened at 9:21pm and ended at 10:10pm. After the meeting reconvened, the assembly took no action as a result of the executive session.

12. **CORRESPONDENCE**

A. **Re. Assembly Appreciation and Turner Gravel Pit** – Citizen

There was no discussion.

13. **SET MEETING DATES**

At the call of the chair, the Government Affairs and Services Committee will meet soon to consider the Vick/Daymond resolution proposal to form a community committee to work on recreational helicopter issues.

The Finance Committee will meet on January 26, 2010 at 6:00pm to review FY10 budget amendment Ordinance 10-01-222.

14. **PUBLIC COMMENTS** – moved ahead of the Executive Session

15. **ANNOUNCEMENTS/ASSEMBLY COMMENTS**

VICK likes the manager’s and CFO’s recommendation that the assembly meet as a committee-of-the-whole (COW) to discuss the general direction of the FY11 budget prior to the manager preparing it. **LAPP** noted the COW should include consideration of the citizen budget survey.

ROSSMAN expressed concern that borough code does not allow motorized vehicles on sidewalks for snow removal purposes. **WATERMAN** suggested that perhaps the definition of *motorized vehicle* might need to be adjusted. The manager will look into this, and the mayor said this topic can be discussed at the next assembly meeting.

16. **ADJOURNMENT** – 10:24 p.m.

Motion: **VICK** moved to adjourn the meeting, and the motion carried unanimously.

ATTEST:


Jamie Heinz, Deputy Clerk




Janice Hill, Mayor