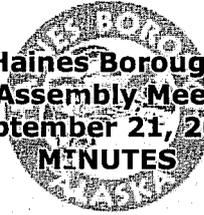


**Haines Borough**  
**Borough Assembly Meeting #186**  
**September 21, 2010**



**Approved**

**1. CALL TO ORDER/PLEDGE TO THE FLAG:** Mayor **HILL** called the meeting to order at 7:18 p.m., following adjournment of the special meeting, in Assembly Chambers and led the pledge to the flag.

**2. ROLL CALL**

**Present:** Mayor Jan **HILL**, and Assembly Members Jerry **LAPP**, Daymond **HOFFMAN**, Norm **SMITH**, Scott **ROSSMAN**, Joanne **WATERMAN** (via teleconference) and Steve **VICK**.

**Staff Present:** Mark **EARNEST**/Borough Manager, Julie **COZZI**/Borough Clerk, Brad **MAYNARD**/Director of Public Facilities, Gary **LOWE**/Chief of Police, and Ed **BARRETT**/ Harbormaster.

**Visitors Present:** Tom **MORPHET**/CVN, Libby & Bill **KURZ**, Janet **KURZ**, Les **HOSTETLER**, Fred **EINSPRUCH**, Dave **BUTTON**, Christian **CABANILLA**, Kamla **TRIMBLE**, Nick **TRIMBLE**, Karen **HESS**, Pam **RANGLES**, Tim **MCDONOUGH**, Dan **EGOLF**, Gabe **LONG**, Jason **GAFFNEY**, Scott **SUNDBERG**, Dick **FOLTA**, Patty **CAMPBELL**, Thom **ELY**, and others.

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

**Motion:** **LAPP** moved to "approve the Agenda/Consent Agenda," and the motion carried unanimously.

**\* 4. APPROVAL OF MINUTES** – Regular: 8/10

**5. PUBLIC COMMENTS**

**KURZ** asked for the second Public Comments period to be moved ahead of the Executive Session, and the Assembly agreed.

**EINSPRUCH** believes the assembly executive sessions have been excessive. Regarding heliskiing, he said it is in the public interest to understand the number of attorney hours consumed to date. He also asked the borough to salvage the glass out of the school buildings that are being demolished.

**ELY** said all heliski discussions need to be held out in the open since it has been a public issue.

**DUBBER** asked the assembly to repeal the heliski regulations, because it's a lawsuit waiting to happen and severely divides the community. The current regulations were formed with only one person representing the heliski industry. He would like the assembly to start over if they have to.

**MORPHET** said since the matter is not a lawsuit at this time, it is important for the assembly to be very clear about the reason heliskiing qualifies for an executive session.

**LONG** doesn't believe the regulations are proper. Other tour operators don't have the same limits and regulations.

**HOSTETLER** gave a brief update on the Harriet Hall renovation project and announced that the Rasmussen Foundation accepted the request.

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

Mayor **HILL** mentioned the Hoonah Police Department shootings. She attended the funeral with Chief Lowe and commended the efforts of those who provided transportation and coordinated logistics that facilitated attendance.

She attended Southeast Conference in Petersburg with the Borough Manager. Energy and transportation were two of the primary topics. Part of a day was dedicated to a candidate forum.

**7. PUBLIC HEARINGS**

**A. Ordinance 10-08-236** – First Hearing

**An Ordinance of the Haines Borough amending Haines Borough Code Title 3 Section 3.70.040 to provide a hardship exemption from real property taxation for qualified senior citizens and disabled veterans.**

The mayor opened and closed the public hearing at 6:50pm; there were no public comments.

**Motion:** **LAPP** moved to "advance Ordinance 10-08-236 to a second public hearing to be held at the next regular assembly meeting," and the motion carried 5-1 with **ROSSMAN** opposed.

**B. New 2010 Commercial Tour Permit - Eco-Orca**

The mayor opened the public hearing at 6:52pm.

**HESS** asked the assembly not to issue a tour permit to Eco-Orca. She recounted an experience this year that involved two people on the pier that had no one to meet them; they were expecting "Captain Dave." She took care of them and included them in her own tour and received no revenue. Haines does not need a dishonest tour operator. These people paid Mr. Button \$470 plus the Haines-Skagway Ferry roundtrip cost for a tour they did not receive.

**BUTTON** said **HESS's** experience shows the importance of working together. He said he is not a quitter. He has 100 tours lined up and if he is not allowed to operate, the costs to the borough will be phenomenal. He would appreciate the assembly's approval if they don't want to see him back every week.

**LONG** was surprised to see this permit application again. He has not seen a quality experience in any of Mr. Button's tours and asked the assembly to deny it. He does not see how this proposed tour is even logistically possible.

Hearing no further comments, the mayor closed the public hearing closed x:xxpm.

**Motion: LAPP** moved to "Authorize the borough clerk to process the Eco-Orca application and, if everything is in order, issue a 2010 commercial tour permit."

**HOFFMAN** said it seems that some people can fall out of the good graces of the borough and he wondered the process for a person to rehabilitate themselves. **SMITH** said being honest is the most positive thing. **ROSSMAN** said he will likely vote "yes" not for Button, per se, but for free-enterprise. **VICK** asked if the assembly can outline a way for a person to come back into favor with the borough. He has a concern with the proposed tour location. It's known by some as the Bermuda Triangle of Haines. The wind and the currents are very dangerous. He would want more safety regulations in the proposal. **LAPP** agreed with **VICK** and **HOFFMAN** and wondered about a probation period. He opposes a 2010 permit this late in the game. **WATERMAN** agreed with what the Chief of Police said in his comments: "The best predictor of future behavior is past performance."

The motion failed 1-5 in a roll call vote with **ROSSMAN** opposed.

**8. STAFF REPORTS**

**A. Borough Manager**

The manager summarized his written report that included the following items:

- Additional State Land Selection
- Bear Ordinance
- Excursion Inlet Hydroelectric Reconnaissance/Feasibility Study
- AK-DOT&PF STIP & Needs List Nominations
- Haines Borough Comprehensive Plan Update
- Heli-ski Issue
- Delta Western Lease Update

**Motion: LAPP** moved to "direct the Borough Manager to formally submit a notice of interest to the Alaska Department of Natural Resources requesting a title transfer to the Haines Borough for the State lands near Mile Post 4.5 of the Haines Highway state lands to be utilized as a gravel source. Further, that copy of the notice be sent to Senator Albert Kookesh and Representative Bill Thomas," and the motion carried unanimously.

During discussion, **SMITH** wanted to know if a resolution at the next meeting could be done. **EARNEST** agreed.

The manager distributed a supplemental written report covering the following additional topics:

- Southeast Conference Annual Meeting
- Northern Lynn Canal Regional Strategy
- Economic Development and Tourism Departments

He proposed a joint meeting with Skagway in November or December. There was no objection, so he will work with that manager to come up with some ideas.

Regarding tourism and economic development, the Tourism Advisory Board likes the current model

with a tourism director and the same level of funding. He welcomed the assembly's thoughts on the topic. **VICK** would like some money used for local businesses to balance it out. **ROSSMAN** would like to always maintain a portion for economic development. **WATERMAN** said the ferry terminal got a lot of comments about the visitor center being closed on the weekends. There should be some kind of presence there in the future.

**VICK** asked about the Safe Routes to Schools recommendations. He asked if they could be brought to the next meeting, and **EARNEST** promised he would.

- \* 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

**LAPP** reported that the Committee met prior to this meeting to review Ordinance 10-09-237 that is up for introduction later in the agenda. This ordinance provides for additional amendments to the FY11 budget, and the Committee recommends introduction but plans to suggest one amendment.

- C. Personnel and Labor Relations
- D. Government Affairs & Services

**VICK** reported that the Committee met with the Chair of the Energy Sustainability Commission (ESC) and one member who expressed frustration with how the ESC is being utilized. They have given recommendations that they believe are not acted upon such as the Conservation Plan, wood heat, and LED street lights. If the ESC is not saving money in some way or won't be utilized, the members would prefer the group terminate on 10/31/10, as scheduled. They would like to see the Energy Fair and energy usage reports continue. **VICK** said the Committee would like to have this topic as a discussion item on the next assembly agenda.

- \* 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 10-09-232

A resolution of the Haines Borough Assembly authorizing the Borough Manager to task PND Engineers, Inc. with providing preliminary design work for road repairs for Fourth Avenue, View Street, and Lynnvue Drive, for an amount not to exceed \$120,000.

**Motion:** **ROSSMAN** moved to "adopt Resolution 10-09-232," and the motion carried unanimously in a roll call vote. There was no discussion.

#### 2. Resolution 10-09-233

A resolution of the Haines Borough assembly appointing election officials for the regular election to be held October 5, 2010, and establishing the wages.

**Motion:** **LAPP** moved to "adopt Resolution 10-09-233," and the motion carried unanimously in a roll call vote. There was discussion about the low wages, and the clerk mentioned the pending Election ordinance contains a provision for the assembly to pay a higher wage.

**3. Resolution 10-09-234**

**A resolution of the Haines Borough Assembly authorizing the Borough Manager to execute a contract amendment with PND Engineers, Inc. to prepare the final Compensatory Mitigation Plan for the Port Chilkoot Dock Waterfront Development Project for an amount not to exceed \$22,360.00.**

**Motion:** ROSSMAN moved to "adopt Resolution 10-09-234," and the motion carried unanimously in a roll call vote.

During discussion, SMITH asked if it would be possible to include testing of the water stream adjacent to Flegel's that comes down from Kathleen Drive, because he believes there is leach coming from the landfill. MAYNARD responded that the mitigation plan has already been submitted and accepted. If the stream needs to be tested, the Borough could ask AK-DEC to do it. EARNEST said he will look into it and report back.

**4. Resolution 10-09-235**

**A resolution of the Haines Borough Assembly authorizing the Borough Manager to execute a contract amendment with Carson Dorn, Inc. for additional work relating to hazardous materials discovered during investigation work to prepare the engineering documents for the Haines School Demolition Project for an amount not to exceed \$21,200.**

**Motion:** ROSSMAN moved to "adopt Resolution 10-09-235," and the motion carried unanimously in a roll call vote. No discussion.

**B. Ordinances for Introduction**

**1. Ordinance 10-09-237**

**An ordinance of the Haines Borough Assembly providing for the addition or amendment of the FY11 budget.**

**Motion:** LAPP moved to "introduce 10-09-237 and set a first public hearing for the next regular assembly meeting," and the motion carried unanimously. It was amended to change from "FY12 CIP" revenues to "FY11 GF fund balance" for items #1 and #3.

**2. Ordinance 10-09-238**

**An ordinance of the Haines Borough readopting section 3.70.040(D) to accurately incorporate adopted ordinances 05-09-122, 05-11-131, 07-10-171, 09-08-213, and 10-02-223.**

**Motion:** LAPP moved to "introduce 10-09-238 and set a first public hearing for the next regular assembly meeting," and the motion carried unanimously.

**3. Ordinance 10-09-239**

**An ordinance of the Haines Borough amending Haines Borough Code, Title 18, Sections 18.20.020 and 18.80.030 allowing parking areas to be constructed within setbacks and clarifying that driveways are not subject to setback requirements.**

**Motion:** LAPP moved to "introduce 10-09-239 and set a first public hearing for the next regular assembly meeting," and the motion carried unanimously.

**4. Ordinance 10-09-240**

**An ordinance of the Haines Borough amending Haines Borough Code, Title 8 to add Chapter 8.20 to address bear attraction nuisance.**

**Motion:** ROSSMAN moved to "introduce 10-09-240 and set a first public hearing for the next regular assembly meeting," and the motion carried unanimously.

During discussion, the assembly asked for more clarity in the ordinance regarding fencing, fruit tree, smoking fish, pet food, and whether this ordinance would apply areawide or to the townsite only.

**C. Other New Business -**

**1. Reconsideration of Resolution 10-09-231**

**A Resolution of the Haines Borough Assembly endorsing a list of Haines projects for the FY11 STIP project nomination process, and for related purposes.**

**Motion: ROSSMAN** moved to "reconsider the 9/9 motion to adopt Resolution 10-09-231," and the motion carried unanimously.

The effect of the passage of this motion put the motion to "Adopt Resolution 10-09-231" on the floor and opened it for discussion.

**Motion: VICK** moved to "amend Resolution 10-09-231 to add the following language: *BE IT FURTHER RESOLVED, that the Haines Borough commits to continued ownership, operation and maintenance responsibility for all roads currently owned by the Borough that are identified in this resolution and commits to provision of the federal-aid highway funding match currently at the rate of 9.03% of the total cost of the proposed project improvements,*" and the amendment motion carried unanimously.

The main motion carried unanimously in a roll call vote.

## **2. Request for Title III Forest Receipts Monies - Takshanuk Watershed Council**

**Motion: VICK** moved to "authorize the appropriation of \$36,854 of the Title III Forest Receipts to Takshanuk Watershed Council to fund a forest ecology after-school program for FY11," and the motion carried unanimously in a roll call vote.

During discussion, **LAPP** said he would like to have this type of request come to the assembly during budget time. He would also like to see the Borough promote the availability of Title III funds to other organizations such as the Boy Scouts. **ROSSMAN** said he would like the Takshanuk Watershed Council curriculum include information that teaches the commercial and subsistence uses of the forest.

## **3. Picture Point - Discussion Item**

**Motion: WATERMAN** moved to "give the manager authorization to negotiate the purchase of all or a portion of the property known as Picture Point for an amount no more than \$750,000." The motion carried 4-2 in a roll call vote with **LAPP** and **ROSSMAN** opposed.

During discussion, the manager said he has been contacted by private individuals who would like to have confidential negotiations, and he has entered into a non-disclosure agreement. Following negotiations, he would bring information to the assembly and go from there. He does not believe the motion obligates the Borough. There would be no agreement reached until it is brought back to the assembly for approval. Some assembly members expressed reservations with the high asking price and also continuing to buy land without selling other borough property through a land sale. Most supported the idea of negotiations proceeding on the Picture Point property since any terms would be presented to the assembly for approval.

**PUBLIC COMMENTS** ---moved to this point from Item 14 during the first public comment period.

**EINSBRUCH** and **EGOLF** both spoke in favor of the Borough finding a way to purchase Picture Point.

**ELY** said the borough needs to follow through with enforcing the rules for all tour operators. If Eco-Orca is going to be denied, other operators breaking the rules should not be allowed to operate.

**B.KURZ** does not believe the Energy Sustainability Commission has been well represented by the assembly liaison.

**HOSTETLER** said he doesn't believe in eminent domain and would not like the Borough to consider it as a means to acquire Picture Point. He added in support of a land sale that he's ready to buy a piece of the borough's property.

## **4. EXECUTIVE SESSION - follow-up discussion with the borough attorney regarding the heli-ski ordinance and the threat of litigation.**

**Motion: LAPP** moved to "go into executive session to have a follow-up discussion with the borough attorney regarding the heli-ski ordinance and the threat of litigation as allowed by AS 44.62.310(b) and Haines Borough Charter Section 18.03(B)," and the motion carried 4-2 with **SMITH** and **ROSSMAN** opposed.

Present: Mayor Hill; Assembly Members Lapp, Waterman, Vick, Rossman, Smith, Hoffman; Borough Manager Earnest; and Borough Clerk Cozzi. The executive session convened at 9:02pm and ended at 10:23pm. Assembly Member Waterman left the meeting shortly before the conclusion of the executive session.

The mayor reconvened the regular session and made the following statement: "The Assembly has directed the manager to work with the borough attorney to draft a letter to Southeast Backcountry Adventures (SEABA). The letter will include a statement that SEABA's permit renewal process for the 2011 season will require a public hearing before the assembly. A fine is not being levied against SEABA, and the manager and the borough attorney are working on a revised ordinance for regulating heliskiing."

**12. CORRESPONDENCE** – No discussion

**A. Support for Agenda Item 11C2** - Kitayama

**13. SET MEETING DATES**

The 9/28/10 assembly meeting has been cancelled because the mayor and the deputy mayor will not be available to preside. The next regular meeting will be held on 10/12/10.

The Personnel Committee will meet on 10/7/10 at 5pm to discuss the classification of certain borough employment positions.

**14. PUBLIC COMMENTS** – moved ahead of Item 11C4 during the first public comment period.

**15. ANNOUNCEMENTS/ASSEMBLY COMMENTS**

**VICK** wondered if the Borough could have a shop local day quarterly that is tax free to encourage people to keep money in town. Staff could provide budget impacts. The manager promised to take that question to the CFO and report back at the next assembly meeting.

**LAPP** read aloud the preamble to the Haines Borough Charter with an emphasis on the fifth paragraph:

*"We the people of the Haines Borough, exercising the powers of home rule granted by the Constitution of the State of Alaska, in order to achieve common goals, to support individual rights, to form a more responsive government, and to secure maximum control of our own local affairs, hereby establish this charter.*

*This charter guarantees to the people of the Haines Borough the following rights that are in addition to the rights guaranteed by the Constitution of the United States of America and the Constitution of the State of Alaska:*

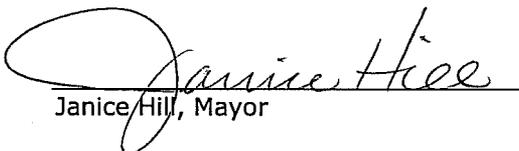
*The right to a government of the people, by the people and for the people, which safeguards our diversity, harmony between neighbors and respect for the environment;*

*The right to access a well maintained public record of all actions of public officials in accordance with this charter, so that the citizens of the borough may retain control over the affairs of their government;*

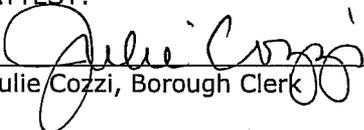
*The right to enjoyment of private property, chosen lifestyles, traditions, employment, and recreational activities without unnecessarily restrictive or arbitrary laws or regulations."*

**16. ADJOURNMENT** – 10:30 p.m.

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

  
Janice Hill, Mayor

ATTEST:

  
Julie Cozzi, Borough Clerk

