


Haines Borough
Borough Assembly Meeting #187
October 12, 2010
MINUTES

Approved

1. **CALL TO ORDER/PLEDGE TO THE FLAG/ROLL CALL**: Mayor **HILL** called the meeting to order at 6:30 p.m. in the Assembly Chambers and led the pledge to the flag.

Present: Mayor Janice **HILL** and Assembly Members Jerry **LAPP**, Joanne **WATERMAN**, Daymond **HOFFMAN**, Norman **SMITH**, Scott **ROSSMAN**, and Steve **VICK**.

Staff Present: Mark **EARNEST**/Borough Manager, Jamie **HEINZ**/Deputy Clerk, Brooks **CHANDLER**/Borough Attorney (via teleconference), Gary **LOWE**/Chief of Police, Jila **STUART**/Chief Fiscal Officer, and Brad **MAYNARD**/Director of Public Facilities.

Visitors Present: Krista **KIELSMEIER** /CVN, Libby & Bill **KURZ**, Janet **KURZ**, Dave **BUTTON**, Pam **RANGLES**, Tim **MCDONOUGH**, Dan **EGOLF**, Jason **GAFFNEY**, Adam **PATTERSON**, Carolyn **WEISHAN**, James **KALLENBERG**, Nick **SCHARKOVSKI**, Jessica **PLACHTA**, John **KATZEEK**, Robert **LIX**, Joe **POOR**, Stephanie **SCOTT**, Lemmie **SPRADLIN**, Eric **HOLLE** and others.

2. **APPROVAL OF AGENDA & CONSENT AGENDA**

Motion: **LAPP** moved to "approve the Agenda/Consent Agenda and it was amended to remove item 11B1 – 10-10-241 Ordinance for Introduction," and the motion carried unanimously.

- * 3. **APPROVAL OF MINUTES** – 9/21 Regular

4. **PUBLIC COMMENTS**

KURZ spoke about the School Demolition project and the possibility of building a steel building as opposed to rehabilitating the old building.

HOLLE spoke on behalf of Lynn Canal Conservation regarding Ordinance 10-10-243. He expressed concern of a possible lag time between adoption of the Title 5 and Title 18 ordinances. Additionally, he expressed concern with looser regulations and requested tightening them up. He also spoke about the Energy Sustainability Commission (ESC) which sunsets 10/31 and as a seated member would like to see it continue. He explained that the ESC has the potential to save Haines a lot of money and expressed that the coordinator has done a remarkable job.

WEISHAN spoke about Ordinance 10-10-243 and sees it mainly as housekeeping and would like to see all regulations carry over. She also expressed that she would like to see the Title 5 and Title 18 ordinances adopted as companion ordinances, with the same effective dates. She expressed additional concern that flight paths are being dropped and provided a disclaimer that had been developed by City and Borough of Juneau regarding flight paths.

GAFFNEY spoke about Ordinance 10-10-243 explaining that his company, Alaska Mountain Guides, ran series of events including ski mountaineering courses and this ordinance doesn't address their use if they were to use a helicopter to assemble their groups in the mountains pointing out that it doesn't separate out ski programs. He said he would like to see the issue addressed.

KATZEEK said that regulations need to be in place for any entity in the borough explaining that if no regulations are in place there is a potential to get carried away. He also explained that he sat on the map committee and wanted to be sure it was retained or amended, but in either case, wanted it to be done correctly.

- * 5. **CERTIFICATION OF OCTOBER 5th BOROUGH ELECTION** (except Assembly Seat E)

Motion: **LAPP** moved to "certify the October 5, 2010 Borough General Election with the exception of Assembly Seat E," and the motion carried unanimously.

During discussion, **CHANDLER** pointed out the different components of the election contest and explained that it would be most appropriate to certify the election with the exception of Assembly Seat E and proceed with investigating the election contest. He also explained that there was no place in code to challenge a nomination prior to the election. Additionally, **CHANDLER** explained that the definition of resident in Charter is relevant if relates to a resident for the purposes of a candidate or voting.

Motion: **VICK** moved and it was amended to "order the Borough Manager and Borough Clerk to conduct an investigation since the Assembly Seat E Election has been contested and impose deadline for the results of the investigation to be presented to the Assembly at their 10/26 meeting," and the motion carried unanimously.

During discussion, **EARNEST** assured the Assembly that the investigation results would be in the 10/26 meeting packet and that the attorney would be available.

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

Mayor **HILL** spoke about attending Alaska Tourism Industry Association in Whitehorse, where the attendees were warmly welcomed and a lot of great networking took place. She said she was pleased to see so many participants from Haines and explained that the conference will be in Juneau next year.

The Mayor also read a proclamation commemorating Haines Borough Public Library's receipt of the Library Journal 5-star award and congratulated all staff and volunteers of the Library

7. **PUBLIC HEARINGS**

A. **Ordinance 10-08-236** – second 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 7:11pm; there were no public comments.

Motion: **WATERMAN** moved to "adopt Ordinance 10-08-236," and the motion carried 5-1 in a roll call vote with **ROSSMAN** opposed. There was no discussion

B. **Ordinance 10-09-237** – first hearing

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

The mayor opened and closed the public hearing at 7:13pm; there were no public comments.

Motion: **LAPP** moved to "advance Ordinance 10-09-237 to a second public hearing on 10/26 and it was amended to add the items from the manager's memo dated 10/8/10," and the motion carried with **ROSSMAN** opposed.

During discussion, **EARNEST** explained that the amendment additions had been presented as a result of a unanimous Personnel Committee recommendation to hire staff in place of three contractors. He explained that in all three situations, the financial burden would essentially be a wash and that his intentions are to not create a burden on the general fund.

C. **Ordinance 10-09-238** – first hearing

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.

The mayor opened and closed the public hearing at 7:28pm; there were no public comments.

Motion: **WATERMAN** moved to "advance Ordinance 10-09-238 to a second public hearing on 10/26," and the motion carried unanimously in a roll call vote. There was no discussion.

D. **Ordinance 10-09-239** – first hearing

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.

The mayor opened and closed the public hearing at 7:29pm; there were no public comments.

Motion: **ROSSMAN** moved to "advance Ordinance 10-09-239 to a second public hearing on 10/26," and the motion carried unanimously in a roll call vote. There was no discussion.

E. **Ordinance 10-09-240** – first hearing

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

The mayor opened the public hearing at 7:31pm;

KURZ said the residents of Haines have lived with bears for years and can continue. He agreed that education is a good idea but felt it went too far to make it an ordinance.

LIX said that the ordinance was poorly written and raised many questions. He explained that as currently written, it would make composting unlawful and dealt with fruit on the ground yet ignored fruit in trees. He pointed out that it is not possible to build a bear or odor proof container. He asked if the borough would consider the possibility of bear resistant community dump and compost pile.

POOR explained that bears are opportunists, if they are unable to get the garbage/fruit/gardens, they will head to homes and pets. He asked that there be no undue regulations placed on the residents. He also explained that the apple tree project is in jeopardy because the trees are in need of being planted, but the manager said to await a decision on this ordinance. He went on to explain that a local RV Park had agreed to put some of the apple trees on their property but after reading an article in CVN regarding this ordinance, they changed their mind.

McDONOUGH spoke as a member of the Alaska Chilkoot Bear Foundation and is concerned that he is hearing from residents that this ordinance wouldn't allow them to grow their own food. He agreed that parts of the ordinance are poorly written but it was put forth in an effort to help keep problems between people and bears minimized. He also explained that Skagway and Juneau had passed similar ordinances and encouraged an ordinance that doesn't go over deep end either way.

RANGLES explained that she had kept track of bear incidences in the newspaper and they generally involved trashcans.

KATZEK encouraged control of trash cans and said that the brown bear knows what he is doing.

The Mayor closed the public hearing at 7:41pm;

Motion: **WATERMAN** moved to "advance Ordinance 10-09-240 to a second public hearing on 10/26," and the motion carried with **ROSSMAN** opposed.

During discussion, it was pointed out that the ordinance was well intentioned, but that it goes too far. It was suggested that the scope to be narrowed to something simple and concrete to deal with just garbage. It was also pointed out that an important component was education. **EARNEST** encouraged everyone to weigh in on this ordinance by submitting their concerns in writing so the issues could be addressed in a substitute ordinance.

The Mayor called a recess at 7:59pm; she called the meeting back to order at 8:05pm.

F. New 2011 Commercial Tour Permit - Eco-Orca

The mayor opened the public hearing at 8:06pm.

BUTTON referred to the miners in Chile that were being rescued and asked the Assembly to start drilling on his tour permit and rescue him as a tour operator.

There were no further comments and the mayor closed the public hearing closed 8:08pm.

Motion: **LAPP** moved to "Authorize the borough clerk to process the Eco-Orca application and, if everything is in order, issue a 2011 commercial tour permit," and the motion failed 1-5 in a roll call vote with **SMITH, VICK, WATERMAN, HOFFMAN** and **LAPP** opposed.

During discussion, it was pointed out that the lack of a permit has not stopped the operator from selling tours. It was asked that not one word of complaint was heard about Eco-Orca tours or Dolly Varden tours for a year and then come back and apply again. It was suggested that the Government Affairs and Services committee look into tour operator rehabilitation and recommend a code amendment for redemption for tour permit that's been rejected.

8. STAFF REPORTS

A. Borough Manager

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

- Commercial Ski Tour and Commercial Recreation Zoning Ordinances
- Bear Ordinance

In addition to his written report, **EARNEST** suggested a joint meeting with Skagway's Assembly at joint meeting in the future.

HOFFMAN asked about old pilings scheduled to be removed as a part of the Port Chilkoot Dock Waterfront Development project. **MAYNARD** explained that the pilings from the toe of the armor rock out 15 feet would be removed as part of the project, but that additional piling removal as part the mitigation plan was removed by Corps of Engineers who preferred an alternative mitigation plan to create tide pools by Picture Point. He also pointed out that CIA has grant to remove additional pilings.

Motion: **VICK** moved to "Postpone the hiring of a tourism director until the assembly has a discussion regarding Tourism/Economic Development Director at the next meeting."

During discussion, it was expressed that the tourism department may be run more effectively by professional economic development director. **EARNEST** explained that he sought direction from the Tourism Advisory Board (TAB), who is united in continuing status quo and from the assembly as well at their 9/21 meeting. He also explained that he's been thinking about an Economic Development Director since his first day on the job because it was a topic at the time. He explained that he believes that a Tourism Director and Economic Development Director are different people. One that focuses on tourism isn't going to talk to mining companies and negotiate dock agreements. **EARNEST** also explained that economic development in Haines is in a good place for the foreseeable future and recommends not hiring an Economic Development Director but to set aside funding for things like grant writing or design work for opportunities that arise. He also pointed out that efforts to revise the Comprehensive Plan would be elevated in the near future and that would provide direction. **VICK** rescinded his motion and requested a presentation to the Assembly to diversify Economic Development. **HOFFMAN** read a section of the Comprehensive Plan which states that a strategy in implementing the overall economic development plan is to maintain a municipal position to improve and implement the economic development plan through the use of existing or new staff.

EARNEST explained that he would have an update on the Picture Point property in November, that the Delta Western lease had not made progress since the Borough submitted their draft to the other party in July, and that the EMT/Fireman position had been offered to the second candidate who has accepted.

- B. Borough Clerk
- C. Chief Fiscal Officer

STUART summarized the written financial report in the meeting packet.

- * 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

LAPP reported that the Committee met on 10/7 and discussed staff positions for a Special Project Coordinator, an Assistant Assessor, a System Administrator and a Project Inspector. He explained that in light of the fact that the positions didn't negatively impact the budget they were approved.

- 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. Service Area Boards
- M. Ad-Hoc Boards & Committees

SCOTT pointed out that the Energy Sustainability Commission (ESC) sunsets 10/31, gave an overview of the ESC members as well as an overview of what the ESC does including graphing municipal and school district energy bills and putting ideas before the Assembly such as the Energy Conservation Policy for borough employees that could be acted on. She also pointed out that the ESC works to bring energy conservation to light through an energy fair and radio

program "Energy Talks." Additionally, **SCOTT** explained that the ESC was tied into statewide initiatives such as Energy Awareness month. **SCOTT** provided a demonstration of a new LED light bulb.

10. **OLD BUSINESS** - None

11. **NEW BUSINESS**

A. Resolutions

1. **Resolution 10-10-236**

A Resolution of the Haines Borough Assembly authorizing the Borough Manager to execute a contract with Waldo Enterprises to provide 2010-2011 snow removal services for Tanani Bay Subdivision, Chilkat Center and Cathedral View/Piedad Area Subdivisions.

Motion: **WATERMAN** moved to "adopt Resolution 10-10-236," and the motion carried unanimously in a roll call vote. There was no discussion.

2. **Resolution 10-10-237**

A Resolution of the Borough Assembly authorizing the Borough Manager to execute a contract with Turner Construction to provide 2010-2011 snow removal services for the Townsite Public Schools and Letnikof Estates Road Maintenance Service Area.

Motion: **WATERMAN** moved to "adopt Resolution 10-10-237," and the motion carried unanimously in a roll call vote. There was no discussion.

3. **Resolution 10-10-238**

A resolution of the Haines Borough Assembly authorizing the Borough Manager to execute a contract with Southeast Road Builders, Inc. to provide 2010-2011 snow removal services for the Riverview Drive Road Maintenance Service Area and Historic Dalton Trail Road Maintenance Service Area.

Motion: **WATERMAN** moved to "adopt Resolution 10-10-238," and the motion carried unanimously in a roll call vote. There was no discussion.

4. **Resolution 10-10-239**

A resolution of the Haines Borough Assembly authorizing the Borough Manager to execute a contract with Alaska Marine Trucking to provide 2010-2011 snow removal services for the Lutak Dock.

Motion: **WATERMAN** moved to "adopt Resolution 10-10-239," and the motion carried unanimously in a roll call vote. There was no discussion.

B. Ordinances for Introduction

1. **Ordinance 10-10-241**

An ordinance of the Haines Borough Assembly amending Haines Borough Code 3.70.040(D) to add two parcels of real property to the existing list of American Bald Eagle Foundation tax-excluded properties.

This item was removed at approval of the agenda.

2. **Ordinance 10-10-242**

An ordinance of the Haines Borough amending Haines Borough Code, section 5.04.130 to revise the commercial tour permit application fees.

Motion: **LAPP** moved to "introduce 10-10-242 and set a first public hearing for 10/26/10," and the motion carried unanimously.

During discussion, it was suggested that an application period be incorporated. **EARNEST** said that if the ordinance was introduced, he would have a substitute ordinance prepared that would address denied applicants.

3. **Ordinance 10-10-243**

An ordinance of the Haines Borough amending Haines Borough Code Title 5 to repeal permit requirements for heli-ski operations and commercial helicopter tours and add permit requirements for commercial skiing tours.

Motion: LAPP moved to "introduce 10-10-243 and set a first public hearing for 10/26/10," and the motion carried unanimously.

During discussion, it was requested that the definition language be consistent regarding snow-boarding and that this ordinance be tied to the re-zone ordinance as far as the effective date of their implementation. Concern was expressed that there are 1,200 skier days regardless of how the skier was transported up the mountain. It was suggested that there be a Committee-of-the-Whole meeting to discuss this topic more in depth.

C. Other New Business –

*** 1. Advisory Board Appointment**

2. Report on SEATrails activity, 2009-2010

Debra Schnabel gave a PowerPoint presentation to report on the SEATrails grant project.

3. Energy Sustainability – Discussion Item

During discussion, it was pointed out that there were potential communication problems between the ESC and borough staff and it was suggested that the manager meet monthly with the ESC Coordinator. Funding for the Coordinator was also discussed. **EARNEST** suggested reevaluating and redefining the goals and objectives of the ESC. He pointed out that more than borough employees need to be targeted and that focus needed to be community-wide. He suggested that the ESC look at larger scale issues such as hydro-electric where real cost savings and efficiency would be realized.

4. NOTICE OF INTENT TO INTRODUCE REZONING ORDINANCE

Motion: WATERMAN moved that "the assembly hereby provides Notice of Intent to introduce an ordinance to amend a portion of the borough's zoning code and requests the planning commission to review the ordinance and report back to the assembly," and the motion carried with LAPP opposed.

During discussion, concern was expressed with regard to restricting the General Use area. It was suggested that the areas that skiing would be permitted in continue to be classified as the General Use zone and restrict the remainder of the area, giving it another name. It was reiterated that the ordinance stemming from this intent be tied to become effective with 10-10-243. It was also pointed out that there wasn't a map that corresponded to the zoning change and that the definitions be consistent regarding snow-boarding. **EARNEST** explained that he also recognized the need to allow for mineral and timber development in the zoning. He suggested that these questions be discussed with the attorney.

12. CORRESPONDENCE – None

13. SET MEETING DATES

A Committee-of-the-Whole meeting was scheduled for 10/26/10 at 5:30pm to discuss Ordinance 10-10-243 and the related rezoning ordinance.

14. PUBLIC COMMENTS

SCHARKOVSKI spoke about the commercial skiing ordinances and said that he doesn't believe there is a zoning issue. He also said he applauds effort to make regulations legally valid, but pointed out that no one is worried about the skiing on the mountains, but that the concern was with the helicopters. He also encouraged gps tracking be re-incorporated into the new ordinance.

SCOTT suggested that the Assembly consider regulations that aren't so expensive and spoke about the regulations regarding business licenses explaining that she's been told that it's very cumbersome to track them. She also said that Haines shouldn't be schizophrenic about what can be done in Haines. She pointed out that the Assembly denied Button's application for infractions but SEABA hadn't been penalized for their infractions.

KURZ spoke about ordinances being lacking and suggested that the Attorney weigh in on them during their creation.

SPRADLIN spoke about the bear problem and explained that if one of the cubs were to be shot, the mother bears would take the rest of the cubs into the woods and the male bears would follow the females.

15. ANNOUNCEMENTS/ASSEMBLY COMMENTS

VICK suggested the format of the website be updated. He also said that a resident suggested an annual community potluck. **HILL** explained that she had committed to that already and it would be similar to this year's picnic.

SMITH said he heard Bob Ward accepted a city manager position in Oregon.

EARNEST said South Pacific was a fantastic production.

16. ADJOURNMENT – 10:40 p.m.

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

Janice Hill, Mayor

ATTEST:

Julie Cozzi, Borough Clerk