


Haines Borough
Borough Assembly Meeting #191
December 14, 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 Jan **HILL**, and Assembly Members Jerry **LAPP**, Daymond **HOFFMAN**, Greg **GOODMAN**, Scott **ROSSMAN**, Joanne **WATERMAN**, Greg **GOODMAN**, and Steve **VICK**.

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

Visitors Present: Krista **KIELSMEIER**/CVN, Libby & Bill **KURZ**, Kevin & Kris **REEVES**, Gary **LIDHOLM**, David & Charlotte **OLERUD**, Nick **TRIMBLE**, Carolyn **WEISHAHN**, Sonny **MYERS**, Pam **RANDLES**, Duck & Karen **HESS**, Thom **ELY**, James **STUDLEY**, Scott **SUNDBERG**, Norman **HUGHES**, Gordon **WHITEMORE**, Sean **GAFFNEY**, Scott **CAREY**, Heidi **ROBICHAUD**, Russ **LYMAN**, Carol **TUYNMAN**, Fred **GRAY**, Roger **MAYNARD**, Deborah **VOGT**, Paul **NELSON**, Cheryl **McROBERTS**, Amy **HUMPHRIES**/Delta Western (via teleconference), and others.

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

Motion: **LAPP** moved to "approve the Agenda/Consent Agenda," and it was amended to add the 12/6/10 meeting minutes to the consent agenda. The motion carried unanimously.

* 4. **APPROVAL OF MINUTES** – Regular: 11/30 and Special: 12/6

5. **PUBLIC COMMENTS**

STUDLEY said **BARRETT** is a great harbormaster. He said the most important economic engine in the Borough is the boat harbor. Harbor parking is needed now. Anything we can do to generate economic health is important.

HUGHES agreed that a parking lot expansion toward the pavilion is needed now. The State is going to realign the road, and it will affect the amount of land available for harbor expansion.

NELSON opposes the borough paying the legal fees for **GOODMAN** to defend himself in the election lawsuit, and he opposes the purchase of Picture Point.

WEISHAHN said it has come to her attention that Klukwan would like to be represented on the Heliskiing Work Group. It would be important to bring their perspective.

B.KURZ asked the assembly to do everything it can to encourage free enterprise.

D.OLERUD said he read that Haines is slated to lose 1.5% of population every year until 2034. That is terrible news for the local economy.

R.MAYNARD said the Department of Labor 3 years ago was forecasting an increase in population for Haines, but it has now been graded down to the point of losing more people than any other community in Southeast Alaska.

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

Mayor **HILL** said the Chilkoot River Corridor public hearing was well attended and many good ideas were discussed. The representatives from the State were pleased with the attendance, civility, and comments. They plan to return in January. She thanked those who took the time to attend.

The mayor thanked the community members and the Haines Chamber of Commerce for the holiday festivities over the weekend. Many people attended the various events. At the recent borough employee holiday dinner, several employees were given 3-year, 5-year, and 10-year service pins. One special award was given to Sue Nelson who has worked for the local government for over 31 years.

7. **PUBLIC HEARINGS**

A. **Heliskiing Permit – New for 2011**

[Alaska Mountain Guides (AMG) applied for a 2011 Commercial Tour Permit to operate Helicopter Skiing Programs within the Borough. AMG is looking to offer two programs: 1)Educational Courses: Helicopter skiing/snowboarding leadership & guide training courses, and 2)Guided Helicopter Skiing: Day programs. Title 5 requires a public hearing on all new commercial tour permit applications.]

The mayor opened the public hearing at 6:54pm.

L.KURZ spoke in favor and read her written comments that had been provided to the assembly.

LIDHOLM spoke in favor and provided written comments.

B.KURZ is in favor and said there seems to be an increase in sales tax since the winter skiing began, and this permit would add to it.

LYMAN read a written statement provided by Joe Ordonez who opposes the permit.

ELY supports a managed and verifiable heliskiing industry but spoke against the AMG permit. It is premature to permit another company, at this point. A 3rd company will put pressure on the Borough to expand the industry. It's not fair to the existing permit holders. He hopes the Work Group will come through with a good recommendation.

R.MAYNARD reminded the assembly that they have the ability to regulate things and prevent growth. He opposes any attempt to regulate business. Voluntary agreements work. But arbitrary limits are not good for the borough. These companies are bringing Haines an industry; an income of taxes and jobs for people.

WEISHAHN supports a managed, limited heliskiing industry. The work to reach compromises was long. There is a mechanism in code that allows the assembly to limit the number of permits. She doesn't want her comments to be seen as negative toward AMG. She has heard they have a good reputation.

TUYNMAN asked the assembly to defer a decision on the permit. She has been attending the Heliskiing Work Group meetings; they are going well and are very civil. It is premature to permit another company when major decisions have not been made. AMG is a wonderful company.

CAREY supports a well-managed heliskiing industry. The best the assembly could do is to delay consideration, or replace one of the noncompliant permittees with AMG.

ROBICHAUD has heard nothing but good about AMG but believes consideration should be delayed.

SUNDBERG said this permit application is premature. Wait until the Work Group has finished its work.

K.HESS believes this permit application is premature. Until the regulations are lifted, there is no room for a 3rd operator. It will just create more issues. She asked it be denied or delayed for the 2011 season.

WHITEMORE said AMG is top-notch, but the application should be delayed. Give them the spot if someone is not complying or drops out.

GAFFNEY said AMG supports GPS measures and removing sensitive areas from the maps, top standards for operating, and would support anything possible to make this industry positive. It would bring 7-10 year-round administration jobs in addition to the guides, etc. There would be economic benefits to them being able to add the wintertime activity to their summer operation. They submitted the application now in order to have time to market the operation.

HUGHES said AMG principals are his friends. He has watched them grow and develop. They are a worldwide operation. They are a good group to have as a part of this community. They want to be here and they want to work with us. They don't break rules. He asked for the assembly to grant the permit and then the skier days allocation could come later.

Hearing no further public comments, the mayor closed the public hearing at 7:22pm.

Motion: **VICK** moved to "Authorize the borough clerk to process the Alaska Mountain Guide application and, if everything is in order, issue a 2011 heliskiing permit," and it was amended to postpone the permit application until the Heliskiing Work Group finishes its work." The motion carried unanimously in a roll call vote.

During discussion, some assembly members wanted to go ahead and approve the permit and figure out the skier days after the Work Group has completed its work. Most chose to agree with the many public comments asking for a delay in consideration.

B. Ordinance 10-05-229 – third hearing

An ordinance of the Haines Borough amending Haines Borough Code, Title 2, Section 2.68, to amend and clarify the Borough's Election procedures.

The mayor opened and closed the public hearing at 7:43pm; there were no public comments.

Motion: **LAPP** moved to “adopt Ordinance 10-10-244,” and the motion carried unanimously in a roll call vote.

During a brief discussion, those involved in preparing the new code were commended.

The mayor called a recess at 7:46. During recess, **HUMPHRIES** of Delta Western joined the meeting via teleconference. The meeting reconvened at 7:56.

C. Ordinance 10-10-244 – third hearing
An ordinance of the Haines Borough amending Haines Borough Code, Title 3 to add Chapter 3.100 to levy a fuel transfer tax.

The mayor opened and closed the public hearing at 7:56pm; there were no public comments.

Motion: **LAPP** moved to “postpone Ordinance 10-10-244 indefinitely,” and the motion carried unanimously.

During discussion, **EARNEST** explained that there has been a lengthy process of negotiations with Delta Western. It’s a critical part of the community and he doesn’t want to inadvertently injure the company or the Borough. He retained the services of Northern Economics to recommend an appropriate fee to charge. The Commerce Committee recommends consolidating the fuel throughput fees into one rate, and that would be the tariff.

D. Ordinance 10-10-245 – third hearing
An ordinance of the Haines Borough amending the Port of Haines Terminal Tariff No. 3 to increase wharfage rates for fluid transport.

The mayor opened and closed the public hearing at 8:03pm; there were no public comments.

Motion: **WATERMAN** moved to “adopt Ordinance 10-10-245,” and it was amended, as follows:

RULE NO. 34 TERMINAL TARIFFS
Item No. 340 Per-Gallon Flow-Through Rates

For the transport of fluids, including, but not limited to fuel, through pipelines across City Borough port and dock facilities in both directions **in any one calendar year.**

<u>Up to five million gallons</u>	<u>\$ 0.02 per gallon</u>
<u>Five million gallons and over</u>	<u>\$ 0.0175 per gallon</u>
Zero through two million gallons	\$.005 per gallon
Two million through Four million gal.	\$.0025 per gallon
Four million gallons and over	\$.00125 per gallon

These rates shall be subject to a 3% per annum cost of living adjustment based on the CPI.

The motion carried unanimously in a roll call vote.

During discussion, **EARNEST** said he believes the negotiations have resulted in good rates that will result in an increase in annual revenues. This is the only Port Tariff rule change being proposed at this time. It was questioned why the port tariff receipts don’t go into Ports and Harbors. **EARNEST** said he will propose that change. It currently goes to the areawide general fund, but dedicated funds are needed to keep the dock in good condition. The consultant economist has recommended the Borough institute a 3% per annum cost of living adjustment based on the CPI. Delta Western has asked for a freeze on tariff adjustments, and he has agreed to discussions, but it would have to be approved by the assembly. **HUMPHRIES** said Delta Western and the Borough both have “scrapes and bruises” from the negotiations. She respects the diligence in looking at this lease renewal. It has been painful, and both sides have learned some things. The final lease will come before the assembly. She added that Delta Western does not take lightly their responsibility to provide the community with safe and reliable service. **EARNEST** thanked **GRAY** and **HUMPHRIES** for their commitment to the community.

E. Ordinance 10-11-247 – second hearing
An ordinance of the Haines Borough amending Haines Borough Code, Title 18, Sections 18.100.030, 18.100.035, 18.100.085 and 18.20.020 to clarify the utility requirements and procedures pertaining to short plats.

The mayor opened and closed the public hearing at 8:35pm; there were no public comments.

Motion: **LAPP** moved to “adopt Ordinance 10-11-247 to,” and the motion carried unanimously in a roll call vote. There was no discussion.

F. Ordinance 10-11-248 – second hearing

An ordinance of the Haines Borough adopting a new water-sewer rate schedule to set rates, fees and charges for water and sewer services.

The mayor opened the public hearing at 8:35pm.

Kevin REEVES opposes the proposed water rates targeting the CCWSS customers and believes they should not continue to be metered if the rest of the Haines customers are on a flat rate.

Hearing no further comments, the mayor closed the public hearing at 8:38pm.

Motion: **WATERMAN** moved to “adopt Ordinance 10-11-248,” and it was amended to correct a clerical error, as follows:

Extra Gallonage Charge: (Each 1,000 gals or fraction thereof used after first 5,000 gals the minimum usage charge)	\$2.17	Extra Gallonage Charge: (Each 1,000 gals or fraction thereof used after first 5,000 gals the minimum usage charge)	\$6.08
Note: If a commercial service includes residential dwellings, an additional 5,000 gals is allowed for each dwelling, covered by the residential flat rate charge as defined in HBC 13.04.240.			

The motion carried 5-1 in a roll call vote with **GOODMAN** opposed.

During discussion, it was noted that it is the borough’s intent to interconnect the two systems as soon as possible. The unmetered water rate is actually higher than the metered rate. **STUART** said the borough has been encouraged by the Alaska Department of Environmental Conservation (DEC) to move towards a system of metered service. If people have meters, they have an incentive not to waste water, and the borough could keep the rates lower. The truth is the borough processes too much water for the volume of customers it has. Staff discussions are taking place regarding transitioning all services to meters in the future. **EARNEST** said the borough has applied for DEC grants for residential meters. **B.MAYNARD** said Carson Dorn engineers will be looking at the options for the tie-in. Two months is his estimate for having a plan and options to consider. Presently, the state is conducting a study of the Piedad water source to determine where there is groundwater infiltration. That is one of several factors that must be considered. Interconnecting the two systems will not be simple because they each have a different water pressure. A few assembly members expressed frustration that things weren’t ready to go right after the papers were signed on the purchase. **EARNEST** explained that the sale and RCA approval were never a certainty. The assembly was reminded that the money to buy CCWSS came out of the General Fund; it was borrowed and must be paid back. The assembly chose, rather than making the CCWSS customers bear the total cost, to have half the cost of the loan repaid by everyone in the system, and half of it as a surcharge by the CCWSS customers. Any improvements to the system would be paid for by another revenue source. **Kris REEVES** said there is apparently something wrong with the system or the meters. They have 3 users in their household and don’t even drink the water and their meter reads 8,000 gallons a month. The assembly discussed the idea of moving the whole system to unmetered or at least giving the CCWSS customers a break. **STUART** said her recollection is that most people do not go over their CCWSS minimum. Under this rate proposal, the metered customer pays a lower rate. **EARNEST** said meters are not infallible, but they are extremely reliable. Spikes in meter readings are the first indication there is a leak. He added that this is the first he’s heard of a problem, and staff can take a look at what’s going on. It was suggested that the Government Affairs & Services Committee could meet with the CCWSS customers to get an idea of their issues. The matter should be investigated before taking the step of taking them off meters.

G. Ordinance 10-11-249 – first hearing

An ordinance of the Haines Borough amending Haines Borough Code 3.70.040(d) to add one parcel of real property to the existing list of American Bald Eagle Foundation tax-excluded properties.

The mayor opened the public hearing at 9:14pm.

D.OLERUD said he believes the property is important for education and research.

Hearing no further public comments, the mayor closed the public hearing at 9:20pm.

Motion: **WATERMAN** moved to “advance Ordinance 10-11-249 to a second public hearing on 12/28/10,” and the motion carried 3-3 with **HOFFMAN**, **VICK**, and **GOODMAN** opposed. The mayor broke the tie in the affirmative.

During discussion, **OLERUD** explained the plans for the Chilkoot Camp property. There have been experts studying the reasons for the decline in fish. This property was given to the ABEF so they could lower the costs of observation in that area. They would like to put some types of units on the property so experts don't have to keep going back and forth. A study showed that the greatest concentration of birds in the area is in the Upper Chilkoot. The assembly asked if a program is set up and if there is curriculum. [No]

8. STAFF REPORTS

A. **Borough Manager**

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

- Crystal Cathedrals Update
- Heliskiing Work Group
- Fuel Transfer and Port Tariff Ordinances
- Comprehensive Plan Update
- Delta Western Lease Update
- Picture Point Negotiations
- Tourism Director Position
- Voter Eligibility Qualifications

Motion: **WATERMAN** moved to “reconsider the motion to approve the agenda/consent agenda at the 11/30/10 meeting.” The motion carried 5-1 with **LAPP** opposed.

Motion: **WATERMAN** moved to “remove Item 11C1-Board Appointments from the 11/30/10 consent agenda. The motion to approve the 11/30/10 meeting agenda/consent agenda, as amended, carried 5-1 with **LAPP** opposed.

The effect of this action was to place 11/30/10 agenda item 11C1-Board Appointments before the assembly for consideration.

Motion: **WATERMAN** moved to “confirm the mayor’s appointments to various boards and commissions,” and the motion carried 4-2 with **VICK** and **GOODMAN** opposed.

During discussion, some assembly members expressed concern with Roger Maynard’s reappointment to the Planning Commission because of his position as editor of a newspaper and alleged derogatory comments made toward assembly members in his paper or on blogs. They said some members of the public have questioned the appropriateness of it and it’s important for the assembly to talk about it. It was noted that it is not uncommon for media companies to have a policy of not allowing employees to serve on boards and commissions because of the perception of a conflict and the power of journalism.

Other assembly members could not fathom a problem, and they said it is wrong to deny a person the opportunity to serve as a voluntary member of a board or commission---paid or not. They were concerned that this is infringing on constitutional rights. **WATERMAN** explained that her reconsideration of this agenda item was not to keep Maynard from being seated on the Planning Commission, because he has done nothing to show that he is not doing a good job. In fact, he has implied by his request for reappointment that he can serve on the Commission in an unbiased way in spite of being an editor of a paper. She reminded that the mayor has the right at any time to remove an individual from office. **R.MAYNARD** responded that media companies are private and can set their own policies. The assembly is a public body that has no right to prevent an individual from serving on a commission. He has the same right to serve as any other individual.

The motion carried 4-2 with **VICK** and **GOODMAN** opposed.

- * 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

VICK reported the Government Affairs & Services Committee met just prior to this meeting to discuss the attorney's draft ordinance that incorporates Bart Henderson's suggestions into the Title 5 tour permit fee and application code. The Committee recommends the ordinance be brought back on the 12/28 meeting agenda. Also, that the manager would look at other municipal codes to see if they have a probation code the borough could incorporate.

- * 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

10. OLD BUSINESS - None

11. NEW BUSINESS

A. Resolutions

1. Resolution 10-12-248

A Resolution of the Haines Borough Assembly authorizing the Borough Manager to enter into a professional services agreement with Alaska Energy Engineering LLC to provide a Wood Heating Feasibility Analysis for an amount not to exceed \$33,366.

Motion: **GOODMAN** moved to "adopt Resolution 10-12-248," and the motion carried unanimously in a roll call vote.

During discussion, **B.MAYNARD** said this analysis will be funded by the AEA Grant. A different firm did a study last year that was inconclusive. This firm has a lot of background and knowledge in this area within Southeast Alaska, and he will specifically look at pellets and more conclusive answers as to how Haines can utilize wood heat. **ROSSMAN** noted that the Tok School is heated 100% with wood chips.

2. Resolution 10-12-249

A Resolution of the Haines Borough Assembly adopting the Borough's 2011 State legislative priorities.

Motion: **ROSSMAN** moved to "adopt Resolution 10-12-249," and the motion carried unanimously in a roll call vote.

During discussion, **EARNEST** explained the reason for the short list of three items saying the projects need to match the focus of the legislature and those that have been prioritized by the administration. He said the Southeast Conference CEDS list will contain the larger Borough project wish list. The assembly discussed the possibility of adding some smaller community projects, and **EARNEST** agreed they could but it may harm the overall effort. There are ongoing efforts to seek funding from other sources for the many other projects on the borough's "to do" list. The Chilkat Center was discussed and all acknowledged the poor condition, especially of the roof, and the need to find ways to fund needed repairs. **B.MAYNARD** reminded the assembly of the condition survey that estimated all of the needed repairs would cost four to five million dollars. He added that it's going to be important for the borough to consider whether to refurbish the building for \$5m for a remaining life span of ten years versus constructing a new building that would have a 50-year life span. **EARNEST** said the most likely source of funding would be a private foundation, but it will be tough since the availability of grant monies is diminishing. It won't be easy to compete against projects that fall into the life, health, and safety category. The functions of the Chilkat Center are a very important part of this community. Haines needs this type of facility and he is working with **B.MAYNARD** on some options.

3. Resolution 10-12-250

A Resolution of the Haines Borough Assembly authorizing the Borough Manager to negotiate a contract with Henricksen Constructors, Inc. for the Clarifier Rake Drive Repair project in the sewer plant for an amount not to exceed \$35,400.

Motion: LAPP moved to "adopt Resolution 10-12-250," and the motion carried unanimously in a roll call vote. No discussion.

4. Resolution 10-12-251

A Resolution of the Borough Assembly adopting the Borough's 2011 Federal priorities.

Motion: WATERMAN moved to "adopt Resolution 10-12-251," and the motion carried unanimously in a roll call vote. No discussion.

B. Ordinances for Introduction**1. Ordinance 10-12-250**

An ordinance of the Haines Borough amending Haines Borough Code 2.08.020 to clarify the residency requirement for Assembly members.

Motion: WATERMAN moved to "postpone this agenda item to the 12/28 meeting," and the motion carried unanimously.

2. Ordinance 10-12-251

An ordinance of the Haines Borough amending Haines Borough Code sections 3.70.030 and 3.70.040 to include a process for handling late-filed applications for senior & disabled property tax exemptions.

Motion: WATERMAN moved to "postpone this agenda item to the 12/28 meeting," and the motion carried unanimously.

C. Other New Business –**1. Swimming Pool Fee Schedule – Christmas Rates**

Motion: moved to "Approve the special Christmas pool pass prices for the quarterly, 10-punch, and 20-punch until 12/31/10, and authorize a donation of 10 pool pass gift certificates to the Salvation Army for the *Giving Tree*," and the motion carried unanimously in a roll call vote.

2. Waiver of Timely Application for 2010 Senior Property Tax Exemption

Motion: WATERMAN moved to "postpone this agenda item to the 12/28 meeting," and the motion carried unanimously.

3. Reconsideration of Resolution 10-11-242 – to correct the dollar amount

Motion: WATERMAN moved to "reconsider the 11/30 motion to adopt Resolution 10-11-242," and the motion carried unanimously.

The effect of this was to put the motion to "adopt Resolution 10-11-242" once again on the floor and open for discussion. It was noted that this action was necessary because of a calculation error when preparing the resolution.

Motion to Amend: VICK moved to "amend Resolution 10-11-242 to change the contract amount from the \$45,150 to \$48,150," and it carried unanimously.

The main motion to adopt Resolution 10-11-242, as amended, carried unanimously in a roll call vote, and the resolution was readopted.

2. EXECUTIVE SESSION – Nukdik (Picture) Point Acquisition Negotiations

Motion: WATERMAN moved to "postpone this agenda item to the 12/28 meeting," and the motion carried unanimously.

12. CORRESPONDENCE - None**13. SET MEETING DATES**

The assembly will meet jointly with the Municipality of Skagway Assembly on 2/7/11. Time and location still to be determined.

A Government Affairs & Services Committee meeting was scheduled for 5:30pm on 12/28/10 to meet with CCWSS customers regarding their concerns now that the Borough has acquired the utility.

14. PUBLIC COMMENTS

B.KURZ suggested a reconsideration of the motion regarding AMG's heliskiing permit application. Additionally, he noted that Ray Menaker was editor of the CVN for many years while he served on the former Borough Assembly.

STUART was very pleased this evening to hear the suggestion of meeting with the CCWSS customers in a democratic way.

KIELSMEIER, a local news reporter, said, in her experience, every journalist makes their own rules concerning involvement in local government---what they are comfortable with. The Borough could establish a local policy for what's allowed and not allowed.

15. ANNOUNCEMENTS/ASSEMBLY COMMENTS

ROSSMAN expressed concern that local plumbers may have not been given a chance to bid on the Harriett Hall renovation.

16. ADJOURNMENT – 10:52 p.m.

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

Janice Hill, Mayor

ATTEST:

Julie Cozzi, Borough Clerk