

Date: January 13, 2015

From: Mike Denker, P.O. Box 298, Haines, Alaska 99827

To: Haines Borough Mayor Jan Hill, and members of the Haines Borough Assembly

Re: HBC § 2.60.055 Filling Vacancies – Procedural Issue with the December 16, 2014 Committee Appointments

At the December 16, 2014 Assembly Meeting, item C2 on the agenda presented the community with the Mayor's proposed board appointments. As the discussion of the item commenced, Assemblyman Campbell ask why there was no information associated with all of the names brought forth for the appointments to the various committees. The Mayor responded that these were "re-appointments", advancing the assumption that no information from these applicants was required.

Assemblyman Campbell was right to ask for information on these applicants. In fact, the code requires it. As such, the question I wish to address here is whether the committee and board appointments made at the December 16 Assembly meeting adhered to HBC 2.60.055.

I. Background

The relevant section of code is *HBC § 2.60.055 (see Addendum for complete wording)*. This section of code was reworked last year to correct the potential for serious issues in the appointment process. The old appointment process offered the potential for applicants to be treated unequally or unfairly. This also included the potential for information to be forwarded to decision-makers outside of the public process. Therefore, a fix was in order to correct these possibilities.

As the principle author of this reworked section of code, I would like to quickly review the text and intent of the wording in HBC § 2.60.055.

II. The text of HBC § 2.60.055 does not distinguish between “appointees” and “re-appointees”.

The text of HBC § 2.60.055 clearly does not differentiate between “appointees” and “re-appointees”. All persons interested in filling a vacancy on a committee, board or commission must follow the same process. There are no “short-cuts” for anyone, including persons who may be seeking reappointment for an expired term. All must submit formal applications, and must be publically vetted in the process. Regardless of whether someone is new to the seat or is seeking reappointment, all are to be treated equally in.

III. The intent of HBC § 2.60.055 is to properly account for the five interests involved.

The intent of HBC § 2.60.055 is to properly account for the five interests involved. These interests are as follows:

1. The Applicant

The applicant is protected through fair and equal treatment.

2. The Committee

The committee is provided with information and the power to make recommendations to the Mayor.

3. The Mayor

The Mayor is provided information through the committee’s recommendations, and the power to make the appointments.

4. The Assembly

The Assembly is provided with the ability to access information from the committee level, and with the power to confirm committee appointments.

5. The Public

The public is provided with information, and the ability to engage the appointment process at the committee level (recommendations), and at the Assembly level (appointments and confirmations.)

IV. The goals are transparency and rationality.

The primary goal of the process is transparency. The process is designed to be open so as to allow all five interests to actively engage in an equal and fair appointment process. This openness results in transparency.

Transparency also results from a process that provides a rationale to accompany each appointment. A key requirement in the reworked code is that the committee's recommendations provide a written explanation of the decision. See the following wording in the code:

*"HBC 2.60.055 A.....The board shall review all applications and prepare written recommendations for appointment(s) to the mayor. **The written recommendation(s) shall include the reasoning behind the final decision(s).**" (Emphasis mine)*

This written explanation is intended to flow through the process all the way to appointment and confirmation. Thus, anyone has the ability to access formal, written information throughout the process.

V. Recommendations

I would like to submit the following recommendations for your consideration:

1. That HBC 2.60.055 be visited prior to the appointment process to ensure compliance with its provisions; and
2. A formal application that prompts applicant's for certain information be developed. This information could include items such as prior committee service, other public service, experience, expertise, or a demonstrated interest in matters related to the particular committees area of focus. As with the current Board Application Form, resumes can also be included in an applicant's packet.

Thank you for your consideration to this matter.

Respectfully,

Mike Denker
Haines, Alaska

ADDENDUM

Haines Borough Code

2.60.055 Filling vacancies.

In the event of a vacancy on a committee, board or commission, either at the end of the board member's regular term or if the seat is vacated for some other reason, the borough clerk shall advertise for replacement board member(s) by posting in three public places a request for letters of interest to be submitted to the clerk's office. Such advertisement shall be placed for a minimum of two weeks, after which time the clerk shall transmit the applications to the appropriate board for inclusion on the agenda at the next public meeting of the board. The following procedure for appointment shall then be followed:

A. If the board is able to seat a quorum, opportunity for public comment regarding the applications for new board member(s) shall be provided. The board shall review all applications and prepare written recommendations for appointment(s) to the mayor. The written recommendation(s) shall include the reasoning behind the final decision(s). The mayor shall, after reviewing the application(s), and considering the board's recommendation(s), appoint all committee, board and commission member(s) subject to confirmation of the assembly.

B. If the board is unable to seat a quorum, the mayor shall, after reviewing all applications, make appointment(s) of new board member(s), subject to the confirmation of the assembly. The mayor shall include the reasoning behind the final decision(s). The mayor's appointment(s) shall be included on the agenda for the next regularly scheduled public meeting of the assembly. Opportunity for public comment shall be provided. (Ord. 14-01-363 § 6)