


Haines Borough
Borough Assembly Meeting #224
May 29, 2012
MINUTES

Approved

1. CALL TO ORDER/PLEDGE TO THE FLAG: Mayor **SCOTT** 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 Stephanie **SCOTT** and Assembly Members Joanne **WATERMAN**, Norman **SMITH**, Steve **VICK**, Debra **SCHNABEL**, and Daymond **HOFFMAN**. **Absent:** Assembly Member Jerry **LAPP**.

Staff Present: Mark **EARNEST**/Borough Manager, Julie **COZZI**/Borough Clerk, Jila **STUART**/Chief Fiscal Officer, Brian **LEMCKE**/Director of Public Facilities, Tanya **CARLSON**/Tourism Director, Jerrie **CLARKE**/Museum Director, Patricia **BROWN**/Library Director, Gary **LOWE**/Chief of Police, Darsie **CULBECK**/Special Projects Consultant, and Adam **PATTERSON**/Police Officer.

Visitors Present: Krista **KIELSMEIER**/CVN, Margaret **FRIEDENAUER**/KHNS, Bill **KURZ**, Fred **EINSPRUCH**, Paul **NELSON**, Sara **CHAPPELL**, Melissa **ARONSON**, Ann **HANSEN**, Norman **HUGHES**, and others.

3. APPROVAL OF AGENDA & CONSENT AGENDA (Items with the *asterisk are on the consent agenda)

Motion: **WATERMAN** moved to "approve the Agenda/Consent Agenda," and it was amended to add an Executive Session just prior to adjournment, and an item 11C2 to discuss sidewalk construction and the possibility of allocating local funds. The amended motion carried unanimously.

*** 4. APPROVAL OF MINUTES** – Regular: 4/10/12 and 4/24/12

5. PUBLIC COMMENTS

EINSPRUCH thanked the staff and assembly for the scrap metal barge. Also, he informed the assembly that he is seeking a prescriptive easement to maintain public beach access.

NELSON said he is not opposed to immigration. However, he is concerned that the borough may be violating federal law. Mayor **SCOTT** assured him she was informed by the manager that the borough is within the law.

KURZ asked the borough to look more at the qualified people that are already within the community. Preference should be given to locals.

6. MAYOR'S COMMENTS/REPORT

Mayor **SCOTT** asked the clerk to administer the oath of office to the borough's newest police officer, Adam Patterson.

The mayor said the harbormaster recommended assistant harbormaster Joe Parnell for special recognition, and she read his reasons for that, including the fact that he has been the one constant in that department since 2007. He has handled the duties of temporary harbormaster, facility security officer, and administrative officer during harbormaster absences. He is indispensable and maintains a positive attitude and concern for port and harbor issues. Over the past five years, he has done everything from removal of over 300 inches of snow, account billings, ice delivery, fuel pumping, facilities maintenance, and security for cruise ships.

7. PUBLIC HEARINGS

A. Ordinance 12-04-286 – Second Hearing

An Ordinance of the Haines Borough, Alaska, providing for the establishment and adoption of the budget of the Haines Borough for the period July 1, 2012 through June 30, 2013.

Mayor **SCOTT** opened and closed the public hearing at 6:45pm; there were no public comments.

Motion: **WATERMAN** moved to "advance Ordinance 12-04-286 to a third public hearing on 6/12," and the budget associated with this ordinance was amended to incorporate 11 of the 13 changes as outlined in a 5/29 memo from the Chief Fiscal Officer (items #4 and #13 were removed from consideration until the 6/12 meeting, and item #12 was reworded to strike the words "during the spring and summer months" from the description). A unanimous motion to divide the question resulted in each of the 13 items being voted on separately. The votes were as follows:

Item #1: 5-0, unanimous

- Item #2: 5-0, unanimous
- Item #3: 4-1 with **SMITH** opposed
- Item #5: 5-0, unanimous
- Item #6: 5-0, unanimous
- Item #7: 5-0, unanimous
- Item #8: 4-1 with **SMITH** opposed
- Item #9: 5-0, unanimous
- Item #10: 5-0, unanimous
- Item #11: 5-0, unanimous
- Item #12, as amended: 5-0, unanimous

During discussion, **STUART** said she will be able to provide more detail on mill rate history in time for the next meeting. **SCHNABEL** said she is uncomfortable with determining the mill rates prior to deciding what the budget will be. She would like that particular item (#4) to be saved until the end. Mayor **SCOTT** requested that consideration of amendment item #13 be reserved for the next meeting. She will meet tomorrow with the manager and the borough's D.C. lobbyist Brad Gilman (who will attend telephonically) to discuss that budget item. Regarding item #12 pertaining to a laborer for the spring and summer months, **LEMCKE** said the borough currently has three seasonal parks employees. They are all very busy right now, but those projects will die down, and in about 6 weeks, one of them will go. He would look more at next fall in the event there is a winter even close to last year. If the assembly is concerned about the community's welfare, he would like to see funding for a temporary person for that time of year as opposed to the summer parks. **STUART** suggested calling the position simply "seasonal laborer" as opposed to limiting it to spring and summer months. **SCHNABEL** said from her perspective, the community looks great and she believes it's because people are cleaning up, trimming, etc. She always thinks public works and facilities need bodies to get the work done, and she would like to make sure there are enough people during the spring and summer months.

B. Ordinance 12-04-287 - First Hearing

An Ordinance of the Haines Borough Assembly amending Haines Borough Code Title 2 Sections 2.10.200 and 2.10.250 to clarify the procedure for filling a vacancy occurring in the Borough Assembly.

Mayor **SCOTT** opened and closed the public hearing at 7:21pm; there were no public comments.

Motion: **WATERMAN** moved to "adopt Ordinance 12-04-287," and it was seconded. The motion carried unanimously. There was no discussion.

C. Ordinance 12-05-288 - First Hearing

An Ordinance of the Haines Borough Assembly authorizing the borough manager to accept loans from the Alaska Department of Environmental Conservation for water system improvements.

Mayor **SCOTT** opened and closed the public hearing at 7:23pm; there were no public comments.

Motion: **VICK** moved to "advance Ordinance 12-05-288 to a second public hearing on 6/12," and it was seconded. The motion carried unanimously. There was no discussion.

STUART explained the terms of the loans are 20 years with an interest rate of 1.5%.

D. Ordinance 12-05-289 - First Hearing

An Ordinance of the Haines Borough Assembly amending Section 2.04 of the Haines Borough Charter pursuant to a vote of the people at the October 2, 2012 Haines Borough General Election to provide the option of filling an assembly vacancy by special election.

Mayor **SCOTT** opened and closed the public hearing at 7:25pm; there were no public comments.

Motion: **WATERMAN** moved to "advance Ordinance 12-05-289 to a second public hearing on 6/12," and it was seconded. The motion failed 2-3 with **SMITH**, **VICK**, and **SCHNABEL** opposed.

During discussion, **SCHNABEL** spoke against the ordinance. The charter and code provide that the

longest a vacancy can be is 12 months. What will happen, because of human nature, is a default to a special election. It's always easier to let the people decide rather than take responsibility to make an appointment. **VICK** agreed with her concern about defaulting to a special election. If the charter were to be amended to allow this, the code would need to be amended and the assembly could specify parameters. **SCOTT** spoke in favor of the ordinance to allow the assembly the option. **WATERMAN** said in most situations, there is only one seat vacant. She understands having it as a fallback but she doesn't see it will usually be needed. **HOFFMAN** agreed. He doesn't see this as taking the easy way out. It's an option that will work if the remaining members are unable to appoint. He doesn't see a problem with letting the voters decide. **SCHNABEL** clarified that currently an appointment is made until the next regular election. If filled by a special election, it would still just be until the next regular election. If the assembly appoints, it's until the next regular election. Why would the one elected by special election not complete the term? The people should elect to elect, not elect to appoint. **VICK** noted the special election could be greatly affected by the time of year the vacancy occurs. **SCOTT** said she has never been comfortable with the assembly making an appointment to a vacancy, but she understands all of the arguments.

E. Ordinance 12-05-290 – First Hearing

An Ordinance of the Haines Borough Assembly placing on the October 2, 2012 Election ballot the question of exemption from the Alaska Public Official Financial Disclosure law (AS 39.50).

Mayor **SCOTT** opened the public hearing at 7:37pm.

CHAPPELL encouraged the assembly to work at educating the public so they understand the reasons for asking for an exemption.

Hearing no further comments, the mayor closed the public hearing at 7:39pm.

Motion: **WATERMAN** moved to "advance Ordinance 12-05-290 to a second public hearing on 6/12," and it was seconded.

During discussion, **SCHNABEL** said she would like further discussion at the committee level where ballot language drafting can take place more easily. The main reason for financial disclosure is for the public to understand financial relationships and potential conflicts. There are people who have stock portfolios and to be required to list the holdings is unreasonable and intrusive. Also, disclosing where they have their retirement funds shouldn't be required. She added that in the borough's local reporting, consideration should be given to expanding the language to include domestic partners. **SCOTT** agreed that the work should be done in committee. **HOFFMAN** would like the committee to also discuss the educational effort.

Motion: **SCHNABEL** moved to "refer Ordinance 12-05-290 to the Government Affairs & Services Committee, and when the committee is ready, return it to the assembly," and it was seconded. The motion carried unanimously, and the committee referral "trumped" the main motion.

F. Ordinance 12-05-291 – First Hearing

An Ordinance of the Haines Borough Assembly amending Haines Borough Code Sections 18.20.020, 18.30.010, 18.30.060, 18.40.030, 18.50.030, 18.60.010, and 18.90.030 to revise the types of permits and their uses, and the timeframes associated with acceptance and approval of permits.

Mayor **SCOTT** opened and closed the public hearing at 7:47pm; there were no public comments.

Motion: **HOFFMAN** moved to "advance Ordinance 12-05-291 to a second public hearing on 6/12," and it was seconded. The motion carried unanimously. There was no discussion.

G. Ordinance 12-05-292 – First Hearing

An Ordinance of the Haines Borough Assembly adopting, by ordinance, a revised fee schedule including rates, fees and penalties for harbor facility usage.

Mayor **SCOTT** opened the public hearing at 7:49pm.

HUGHES said he helped to draft this document. Since it was first submitted to the assembly, the harbor committee met and recommended some additional amendments. The committee just wants one fee for all trailers for the time being. Also, in Section 7, electrical connection service rates, they suggest specifying *30-amp* and *50-amp* service. **WATERMAN** asked why there are problems with having a separate commercial trailer fee. **HUGHES** said the committee has not been able to come up with a definition for commercial trailer. They need more time for resolution, so they decided to ask the assembly to delete it for now. **WATERMAN** asked if that is the reason they chose to double the

annual launch ramp fee, and he said no. **HUGHES** said it was raised prior to this conversation about commercial trailers. The committee plans to talk about the commercial trailers in the future. They need to make sure it is clearly defined and enforceable. They were not involved in the FY13 budget, but next year perhaps they can get involved earlier in the process.

Hearing no further comments, the mayor closed the public hearing at 7:55pm.

Motion: HOFFMAN moved to "advance Ordinance 12-05-292 to a second public hearing on 6/12," and it was amended to change number 2 – Boat Launch Ramp Use Fees by striking 'recreational vessel' from the first line, reducing \$100 to \$60, striking the entire commercial trailers line, and changing the daily launch ramp use fee from \$10 to \$15; and in Section 7 - Electrical service connection rates, specifying 30-amp service, and striking '240 service' and replacing with '50-amp'. The amended motion carried unanimously.

During discussion, **SMITH** said he disagrees with the ramp fee increase. The launch ramp fee was \$25 ten years ago. There should probably be an increase but not 100-percent. **HOFFMAN** said he doesn't have a recreational vessel but does use the crane and buys ice. The assembly is trying to get things caught up, and this seems like nit-picking. **WATERMAN** noted the crane usage and ice costs are not being doubled. One of the big things is enforcement. Doubling the ramp fees again in such a short period of time may encourage more abuse. More people might try to avoid getting a boat launch permit. **VICK** moved to amend it further by changing the live-aboard fees for over 14 days to \$70 per month, but the motion failed 2-3 with **WATERMAN, HOFFMAN, SCHNABEL** opposed.

8. STAFF/FACILITY REPORTS

A. **Borough Manager – 5/29 Report**

EARNEST expressed his gratitude for everyone who made the scrap metal/vehicle barge so successful. This round is done, and there were about 400 vehicles and an equal amount of scrap metal that went out. An estimated 400 vehicles remain in the borough, so there is interest in a second round.

★ **B. Chilkat Center – April 2012 facility report**

★ **C. Public Library – March 2012 staff report and 3/14/12 board meeting minutes**

9. COMMITTEE/COMMISSION/BOARD REPORTS & MINUTES

A. **Assembly Committees**

1. **Committee of the Whole**

SCOTT said the assembly met as a committee of the whole to work on FY13 budget amendments and also agreed to review the borough manager applications with a selection matrix.

2. **Commerce Committee**

3. **Finance & Budget**

4. **Personnel & Labor Relations**

5. **Government Affairs & Services**

★ **B. Planning Commission**

★ **C. School Board**

★ **D. Advisory Boards**

★ **E. Service Area Boards**

★ **F. Ad Hoc Boards & Committees**

10. UNFINISHED BUSINESS - None

11. NEW BUSINESS

A. **Resolutions**

1. **Resolution 12-05-357**

A Resolution of the Haines Borough Assembly authorizing the Borough Manager to enter into an agreement with PND Engineers, Inc. to provide engineering design services for the Chilkat Lake Roads Maintenance Project on a time and expenses reimbursable basis per the attached fee and rate schedule for an estimated cost of \$38,870.

There were no public comments.

Motion: WATERMAN moved to "adopt Resolution 12-05-357," and it was seconded. The motion carried unanimously in a roll call vote. There was no discussion.

2. Resolution 12-05-358

A Resolution of the Haines Borough Assembly authorizing the Borough Manager to enter into an agreement with PND Engineers, Inc. to provide contract administration and inspection services for the Street Improvements Phase Three project for a not-to-exceed amount of \$107,960.

There were no public comments.

Motion: WATERMAN moved to "adopt Resolution 12-05-358," and it was seconded. The motion carried unanimously in a roll call vote.

LEMCKE explained the inspector will be onsite throughout the project and was one of the design engineers. There are a lot of areas of the road that are not very good, and this person will be there counting the truckloads of material taken out, watching to make sure storm drains have the proper amount of bedding, and making sure everyone is playing by the rules. Another thing an inspector does is review the pay requests to make sure they are proper. This is a complicated project, so he's very comfortable having this inspector for quality assurance.

3. Resolution 12-05-359

A Resolution of the Haines Borough Assembly authorizing the Borough Manager to enter into an agreement with PND Engineers, Inc. for permitting and final design services for the Port Chilkoot Dock – Phase 3 Improvements Project.

There were no public comments.

Motion: WATERMAN moved to "adopt Resolution 12-05-359," and it was seconded. The motion carried unanimously in a roll call vote. There was no discussion.

4. Resolution 12-05-361

A Resolution of the Haines Borough Assembly authorizing the manager to execute a contract change order with North Pacific Erectors, Inc. for the Vocational Education Building Improvements project to add siding for an amount not to exceed \$24,447.

There were no public comments.

Motion: HOFFMAN moved to "adopt Resolution 12-05-361," and it was seconded. The motion carried unanimously in a roll call vote. There was no discussion.

5. Resolution 12-05-362

A Resolution of the Haines Borough Assembly authorizing the Borough Manager to enter into a Memorandum of Agreement with the Alaska Department of Transportation and Public Facilities for the Picture Point Acquisition project.

There were no public comments.

Motion: HOFFMAN moved to "adopt Resolution 12-05-362," and it was seconded. The motion carried unanimously in a roll call vote. There was no discussion.

B. Ordinances for Introduction

1. Ordinance 12-05-293

An Ordinance of the Haines Borough Assembly providing for the addition or amendment of specific line items to the FY12 budget.

Motion: WATERMAN moved to "introduce Ordinance 12-05-293 and set a first public hearing for the next regular assembly meeting," and it was seconded. The motion carried unanimously. There was no discussion.

C. Other New Business

1. Reconsideration of 5/8/12 Motion

Motion: SCHNABEL moved to "reconsider the motion of 5/8/12 directing the manager to begin the process of implementing the planning commission's recommendations for disposal and use of the former school properties," and it was seconded. The motion carried unanimously, and it was returned to the table for debate. Following discussion, the original motion failed unanimously.

During discussion, SCHNABEL said the assembly's direction to the planning commission was to classify the property and, in her opinion, the assembly's motion went beyond that intention. The public's comments tell her the issue would benefit from more public and assembly discourse.

HOFFMAN agreed. **VICK** expressed appreciation for the opportunity to reconsider this matter. It's important to keep the options open for now and it would be good to move forward with consensus in the future. **SMITH** said he too is glad for the opportunity to reconsider this.

Motion: **WATERMAN** moved to "place the planning commission's recommendation for classification of the primary school subdivision on the assembly's agenda for the June 26, 2012 meeting, with provision for a public hearing, along with discussion of acquisition of the Elks property, and it was seconded. The motion carried unanimously.

During discussion, **EARNEST** asked if the Elks property can be included in the discussion, and the assembly determined it should be a separate agenda item. **SCHNABEL** said the original motion was for the planning commission to provide a recommendation to the assembly by 6/30/12, which they certainly did. However, due to the controversy, she wanted to also provide them with time to reconsider if they so desire. She would also like the school board to represent their thoughts on this matter.

2. **Sidewalk Construction Discussion** (this item was added during approval of the agenda)

SCHNABEL would like the assembly to consider authorizing sidewalk construction for those sections the state is not planning to replace. There are areas that are clearly unsafe, and she just wanted to get the idea on the table. **EARNEST** agreed those sidewalks should all be fixed. It looks half done. He would like to try to find some additional funding through the state, if possible. He talked with Representative Thomas who recognizes it as a deficiency in the project. He has some ideas and has been working to get additional funding. **LEMCKE** said he does not want to tie up in this state project what little road maintenance funds the borough has remaining. Some streets, such as Dalton, have no sidewalks. He is disappointed, but the state's focus was to do the intersections and the handicap access and catch-basin areas. It wasn't just a random decision. **EARNEST** said AK-DOT did come up with the funding internally for the work that is being done, and that is much appreciated. **LEMCKE** agreed that is important to acknowledge. Over a mile of new sidewalks is going in plus the road improvements. There is a lot of good coming out of this project.

12. **CORRESPONDENCE/REQUESTS** - None

13. **SET MEETING DATES**

A. Government Affairs & Services Committee - Monday, 6/4, 5:30pm - Purpose: Work on APOC exemption ordinance, ballot language, and the local reporting form.

B. Finance Committee - Tuesday, 6/5, 4:30pm - Purpose: Discuss the FY12 budget ordinance and a vehicle tax to pay for junk vehicle disposal.

C. Assembly Committee of the Whole - Tuesday, 6/5, 5:30pm - Purpose: Discuss Borough Manager Applications and Review Interview Questions.

D. Commerce Committee - Wednesday, 6/6, 10:00am - Purpose: Meet with local fishermen and AK-F&G regarding local fisheries.

E. Community Center RFQ Steering Committee - Wednesday, 6/6, 12:00noon - Purpose: Review, for approval, the phase one proposed scope of work and fee schedule from McCool, Carlson, Green.

F. Port and Harbor Advisory Committee - Tuesday, 6/12, 10:00am - Purpose: Review Geotech and Letnikof Harbor proposals, and misc. harbor matters.

14. **PUBLIC COMMENTS**

MORPHET reminded the assembly that a motion to go into executive session must be specific.

CULBECK thanked the assembly for reconsidering the classification of the old primary school property.

KIELSMEIER announced she is retiring from journalism at the end of the week.

KURZ reminded the assembly that it would be good to have a student behind the video camera.

15. **ANNOUNCEMENTS/ASSEMBLY COMMENTS**

SCHNABEL suggested it would be good to recognize employees on a regular basis. Additionally, she acknowledged the community seemed to handle the large beer festival without problems.

SMITH said he would like to have crosswalks painted in spite of the construction. It's his pet peeve.

16. EXECUTIVE SESSION

Note: this agenda item was added during approval of the agenda.

Motion: WATERMAN moved to "go into executive session to receive an update on the negotiations with Community Waste Solutions (CWS) for a land sale contract and to discuss litigation strategies pertaining to the Williamson lawsuit, as allowed by Alaska Statute 44.62.310(c) and Haines Borough Charter Section 18.03, because discussion in open session would clearly have an adverse effect on the finances of the borough. The borough manager and borough clerk are asked to attend the entire executive session, and Darsie Culbeck is asked to attend the CWS portion of the session," and it was seconded. The motion carried unanimously.

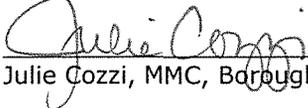
Present: Mayor Scott; Assembly Members Waterman, Vick, Hoffman, Smith, and Schnabel; and Borough Manager Earnest, Borough Clerk Cozzi, Borough Attorney Chandler, and Darsie Culbeck. The executive session convened at 9:27pm and ended at 10:37pm.

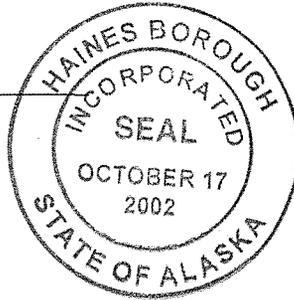
Motion: WATERMAN moved to "direct the manager to continue negotiations with Community Waste Solutions," and it was seconded. The motion carried unanimously in a roll call vote.

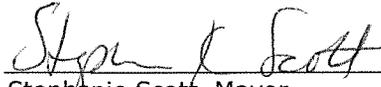
17. ADJOURNMENT – 10:40 p.m.

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

ATTEST


Julie Cozzi, MMC, Borough Clerk




Stephanie Scott, Mayor