

Haines Borough
Borough Assembly Meeting #250
July 23, 2013
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 Debra **SCHNABEL**, Jerry **LAPP**, Norman **SMITH**, Dave **BERRY**, Joanne **WATERMAN**, and Steve **VICK**.
Staff Present: Mark **EARNEST**/Borough Manager, Julie **COZZI**/Borough Clerk, Jila **STUART**/Chief Fiscal Officer, Carlos **JIMENEZ**/Director of Public Facilities, Tanya **CARLSON**/Tourism Director, Tina **OLSEN**/Accounts Payable Clerk, and Joshua **KNORE**/Police Officer.
Visitors Present: Karen **GARCIA**/CVN, Margaret **FRIEDENAUER**/KHNS, Barbara **MULFORD**, George **CAMPBELL**, Heidi **ROBICHAUD**, Mike **DENKER**, Marianne **RASMUSSEN**, Carolyn **WEISHAHN**, Diane **LACOURSE**, George **FIGDOR**, Jack **WENNER**, Deborah **VOGT**, Katie **PALMER**, Jason **GAFFNEY**, Sean **GAFFNEY**, Mario **BENASSI**, Eric **HOLLE**, Kip **KERMOIAN**, Eli **FIERER**, Royal **HENDERSON**, Arthur **WOODARD**, Joe **ORDONEZ**, Katya **KIRSH**, Joshua **BENASSI**, John **HUNT**, Tim **THOMAS**, Scott **SUNDBERG**, Daymond **HOFFMAN**, and others.
3. **APPROVAL OF AGENDA & CONSENT AGENDA**
The following Items were on the published consent agenda:

- 4 – Approve Assembly Meeting Minutes
- 8B – Fire Department Report
- 8C – Chilkat Center Facility Report
- 9A – Planning Commission Minutes
- 9B – Riverview RMSA Board Correspondence
- 11A1 – Adoption of Resolution 13-07-473
- 11A2 – Adoption of Resolution 13-07-474
- 11B1 – Introduction of Ordinance 13-07-336
- 11B2 – Introduction of Ordinance 13-07-337
- 11B3 – Introduction of Ordinance 13-07-338
- 11B4 – Introduction of Ordinance 13-07-339
- 11C1 – Advisory Board Appointment
- 11C2 – Adopt Resolution 13-06-469

Motion: **LAPP** moved to “approve the agenda/consent agenda,” and it was amended to remove item 11C2 from the consent agenda. The agenda, as amended, was approved unanimously.

4. **APPROVAL OF MINUTES** – July 9 Regular
5. **PUBLIC COMMENTS**

VOGT spoke about the topic of corporate personhood and said there is broad public support for it.

KERMOIAN said he doesn’t understand the reasoning for allowing a certain number of heliskiing violations. Also, please don’t make map changes until Fish & Game has completed its studies.

WEISHAHN talked about the two heliskiing-related items not up for public hearing this evening. She thanked the mayor for her efforts. She agrees the committee composition needs to improve. It’s not necessary to open the map every year. As for spot checks, she would like to see something like ten per company.

FIGDOR encouraged the assembly to refer the proposed heliskiing policy issues to committee for more public input and try to identify the key stakeholders.

HOLLE spoke on behalf of Lynn Canal Conservation. Heliskiing has been a very divisive issue. It brings money in during late winter and early spring. On the other hand, it impacts quality of life. He commended the mayor for her thoughtfulness in drafting Ordinance 13-07-339 and he supports it. He also supports increased monitoring of the industry and fines that mean something.

ROBICHAUD supports Ordinance 13-07-339 and changes to the administrative GPS policy. It makes sense to wait on making map changes until Fish & Game is finished with its studies.

KIRSH said she attended a number of the heliski map committee meetings. The goats are very precarious there, and Fish & Game recommends no changes at this time.

LACOURSE supports Ordinance 13-07-399. The ordinance seems more democratic than the existing code. As for amending the map, all stakeholders were not included in the existing process. She believes there have been a lot of violations that have not been followed up on. She really supports economic development but not when it trumps other important citizen values.

ORDONEZ thanked the mayor for showing leadership regarding the proposed changes to the heliski map amendment process.

BENASSI supports Ordinance 13-07-339.

HUNT would like to see a state trooper who can monitor what's going on up the highway, such as fireworks, speeding snow machines, etc., especially during March and April. **SCOTT** announced a state trooper will be posted in Haines beginning this fall.

6. MAYOR'S COMMENTS/REPORT

SCOTT said she drove the Haines Highway with Jim Scholl of ADOT&PF. She learned the highway realignment project has been in the planning stages for the past 9.5 years. It will be done in stages and will take about 8 years to complete. The manager will prepare a written comment on the Environmental Impact Statement for assembly consideration on August 13.

The borough received an informal petition from citizens who want their roads paved. That is very expensive, and she has asked the manager to prepare cost information.

7. PUBLIC HEARINGS

A. Resolution 13-07-472 – Public Hearing

A Resolution of the Haines Borough Assembly amending the Haines Borough Approved Commercial Ski Tour Areas Map.

Note: this resolution would amend the current map based on recommendations made by the 2013 Heliski Map Amendment Committee. Although not required by code, this resolution was scheduled for a public hearing due to the controversial nature of the topic.

Mayor **SCOTT** opened the public hearing at 7:06pm.

VOGT said she is most concerned about the front-range areas right across from her; she objects to any areas on the Chilkat Inlet side. Overall, she believes no changes should be made to the map.

PALMER doesn't believe she was represented at all. She's a backcountry user. It's obvious biology was not well represented, either. She does not believe it was a legitimate committee and therefore the recommendations are not legitimate. People should not be excluded from the process.

WEISHAHN said there should be no map changes, at all, at this time. Wait for the Fish & Game wildlife studies to be completed and for the BLM Ring of Fire decision.

FIGDOR requested this map resolution be tabled. There is no pressing problem. He attended almost all committee meetings. They worked hard but there were some fundamental problems with the makeup of the committee. They need to define what the front range is. It would not be that difficult to do. Also, identify the other competing user groups. After Fish & Game and BLM weigh in, the skiers can ski where they want. We're doing this backwards.

KIRSH said any additions should be delayed until the BLM Ring of Fire comes out, until Fish & Game completes their wildlife studies, until the companies comply with the regulations, and until there are no more deaths for several years. She believes there is no official record of the committee meetings. **SCOTT** said she recorded each committee meeting.

HOLLE said Lynn Canal Conservation does not recognize the committee as valid and therefore the recommendations are not valid. Get some easy to use GPS regulations and some meaningful penalties for violations.

ORDONEZ was on the last heliski working group committee. He's been keeping an eye on the helicopters because he's concerned about noise pollution. He didn't hear a single helicopter last year. He was happy so he didn't submit changes. He lives in Area 21. People want to get away from noise and busyness. Take Area 21 off the map and keep 22 on or take them both off.

THOMAS said what the Heliskiing companies need is terrain to work in that is safe. They need choices due to inclement weather, such as wind, rain, moisture, etc. The recommended changes are small and conservative. The lines drawn on some of the past maps are through the middle of a slope. You don't stop in the middle of a ski run to get picked up. He appreciates all the effort and asked the assembly to please consider these changes.

CAMPBELL thanked the borough for trying to make changes. The map needs to be simple. The public needs to be able to determine if the helicopter is where it belongs or not. He skis and snowmobiles and hikes in the wintertime. Anybody considering Mosquito Lake quiet is mistaken. **SCOTT** said the committee convened/worked sincerely. She heard consideration from the members over and over about residents, safety, etc. Sundberg was put in a difficult position because he was the expert regarding terrain. She enjoyed watching them meet together.

HUNT said the overwhelming comments to him are to not pass this.

HOFFMAN was on the committee. He personally stands by the recommendations. There was terrain added and taken away. They considered the proposals thoroughly. Let it sit after this for three years to wait for the BLM and Fish & Game studies. He recommends the manager work with the assembly to get another advisory vote. The attitudes of the community have changed. Also, consider the mayor's ideas concerning management. Give the industry time to prove itself.

SUNDBERG was also on the committee. He tried to do a sincere job. The planning & zoning technician did a lot of work on the map. Until the BLM comes around, SEABA needs to maximize the terrain in that front area. Some changes had to do with landmarks. They want to be inbounds. The committee did a good job.

Hearing no further comments, the mayor closed the public hearing at 7:43pm.

Motion: **LAPP** moved to "adopt Resolution 13-07-472", and it was amended to remove Areas 1, 2 and 21 from the proposed map because they are too close to residences. The main motion, as amended, carried 5-1 in a roll call vote with **BERRY** opposed.

During the discussion, **SCHNABEL** asked if this assembly would be amenable to asking the committee chair questions, and there was no objection. She said she is interested in the Mosquito Lake area. **HOFFMAN** said what he remembers is that Area 21 would not be an everyday run. It would be used primarily for filming. A lot of the area removals were not used because of safety reasons. **LAPP** thanked the committee for their work. He doesn't see anything wrong with what they've done. It looks balanced to him. **VICK** said the committee was under a lot of pressure. He doesn't believe the areas to remove have been used. The credibility of the committee's makeup has been questioned. Areas 1, 2, and 21 seem to be getting a little too close to residential areas. He's concerned about audible and visible impacts. **LAPP** said activity in the Upper Haska Creek (Area #2) would not be visible. **SCHNABEL** said she is concerned that Area #1 was added for safety reasons to provide a safer pickup area. **SUNDBERG** said SEABA cannot use that area because it's unsafe as it currently stands. The pilots don't like to nose into the mid-slopes. **VICK** said it looks like #1 and #2 slope down towards the valley. **SMITH** said most of the testimony this evening asked the assembly to delay making changes to the map until the BLM and Fish & Game are heard from. The assembly should wait. He moved to postpone the resolution indefinitely, but it was defeated with everyone else voting against it. **BERRY** asked how long the borough has to wait for BLM and Fish & Game. **SCOTT** said Fish & Game will be ready to work with the borough during the winter of 2014-2015. **S.GAFFNEY** said BLM is on a timeline of having the Ring of Fire out this December. **SCHNABEL** would be willing to see this postponed to a certain date to check back in. She sees this map as an attempt to make the heliskiing activities safer. She moved to postpone until the first meeting of December 2013, but it failed 3-4 with **VICK**, **LAPP**, and **BERRY** opposed and the mayor breaking the tie in the negative. **LAPP** noted that when Fish & Game does complete their study, they will make recommendations regarding whatever map is in place at that time.

B. Ordinance 13-07-333 – First Hearing

An Ordinance of the Haines Borough authorizing the issuance of general obligation bonds in an amount not to exceed \$5,050,000 to finance a plan of capital improvements to school facilities of the Borough; authorizing submission to the qualified voters of the Borough at the regular election to be held on October 1, 2013, of a proposition approving this ordinance and ratifying the authorization of the Bonds; appropriating funds for the projects; and providing for an effective date.

Mayor **SCOTT** opened the public hearing at 8:21pm.

CAMPBELL said specific projects need to be lined out in the ordinance. **SCOTT** pointed out the ordinance does indeed specify six projects.

Hearing no further comments, the mayor closed the public hearing at 8:22pm.

Motion: **BERRY** moved to "advance Ordinance 13-07-333 to a second public hearing on 8/13/13," and the motion carried 5-1 with **SMITH** opposed.

During the discussion, **WATERMAN** said she is in favor of this. **SMITH** read the projects aloud from the ordinance.

C. Ordinance 13-07-334 – First Hearing

An Ordinance of the Haines Borough amending Borough Code Title 2, Section 2.68.510 to change runoff election procedures in cases of candidates receiving less than 40% votes.

Mayor **SCOTT** opened and closed the public hearing at 8:26pm; there were no public comments.

Motion: **SCHNABEL** moved to “send the current draft of the ordinance and the proposed substitute ordinance to the Government Affairs & Services Committee to be worked out before coming back to the assembly,” and the motion carried unanimously. There was no discussion, and this was not scheduled for a second public hearing.

D. Ordinance 13-07-335 – First Hearing

An Ordinance of the Haines Borough, providing for the addition or amendment of specific line items to the FY14 budget.

Mayor **SCOTT** opened and closed the public hearing at 8:28pm; there were no public comments.

Motion: **LAPP** moved to “advance Ordinance 13-07-335 to a second public hearing on 8/13/13,” and it was amended to incorporate the changes outlined in the manager’s memorandum. The motion as amended carried unanimously.

During the discussion, **LAPP** said this was discussed by the finance committee just prior to this meeting and they recommend it. Funding possibilities for the additional payroll expenses might include Secure Rural Schools revenue and looking over staffing to see if there are any possible changes that can be made.

8. STAFF/FACILITY REPORTS

A. Borough Manager - 7/23/13 Report

EARNEST summarized his written report.

EARNEST said the bond ordinance process may not lend itself to making the October 1, 2013 Election. There are four possible paths: 1) everything will fall into place in time for October; 2) make the bond conditional on Department of Education (DEED) approval; 3) hold a special election; or 4) defer the bond to the 2014 regular election. The DEED approval process is the same as the grant approval process, so he is moving on both processes concurrently. His recommendation is to advance this to the next meeting, because there will be three weeks before then to drill down on the issues. **STUART** said it will be the last chance to change the bond language, and it couldn’t be changed without running it by the bond counsel. **VICK** noted there could be a special meeting. **STUART** said the issue is that the borough does not know if DEED will approve this and at what percentage. **WATERMAN** believes the borough should wait until 2014. **EARNEST** said he was not aware there was a bond counsel issue with the schedule. **SCHNABEL** wants to go forward with the question. **VICK** said it’s important to have this clear and concrete for the voters. **SCHNABEL** suggested staff go to the bond counsel and propose two propositions, because she doesn’t want to delay these projects. **VICK** said not all the projects will be approved. There could be various contingency scenarios. **STUART** said the borough can qualify for 60% or 70% or nothing for the air handling unit. **SMITH** said it shouldn’t be put on the ballot like this. **STUART** said if the borough is committed to paying for a project, we can get reimbursed after the fact. As long as the borough is willing to take on the risk that it may end up paying for 100% of it if DEED denies it. **EARNEST** said there are a lot of moving parts. If everything can come together, we can move forward.

SMITH asked about E-911 and radios and what is going on. **EARNEST** explained the bids were either far in excess of available funds or bidder/system references showed bad performance. The RFP was cancelled, and it has been rewritten with a different scope and combined with the radio/communication systems. The project has taken awhile, but the issues have been addressed. The combined project is in the budget.

VICK asked for an update on the police department staffing. **EARNEST** said the borough is advertising for a police officer and a temporary dispatcher is working out well, as needed. In terms of seasonal hires or bringing in an additional officer, it is believed by the interim chief that existing staffing can handle it as long as a new officer is hired soon.

VICK asked if the assembly is interested in pursuing the proposed land trade with Delta Western for the tank property across from the post office for the Lutak uplands property.

Motion: VICK moved to "direct manager to approach Delta Western to see if they're still interested in a land swap," and the motion carried unanimously.

LAPP said the borough would be losing revenue. **VICK** said if this is pursued, that point would be part of the conversation. **EARNEST** will make the inquiry and do the research.

- * **B. Fire Department** – Staff Report of June 2013
- * **C. Chilkat Center** – Facility Report of June 2013

9. COMMITTEE/COMMISSION/BOARD REPORTS & MINUTES

- * **A. Planning Commission** – Minutes of 6/13/13
- * **B. Riverview RMSA Board** – Correspondence
- C. Assembly Standing Committee Reports**

1. Government Affairs & Services Committee – Corporate Personhood

VICK said the committee had a meeting on July 16, and he was the only one on the committee who attended. The mayor was there and a few citizens. The idea of a charter amendment came up which would require voter ratification. He read aloud what the charter amendment would be. He believes the borough attorney should review this for any possible affect on how we do business. If the assembly agrees with the principle, there are options. **WATERMAN** would like more clarification. What makes the Charter amendment better than a code amendment? **VICK** said the charter is the foundational principal statement. **BERRY** is not willing to make a decision either way until the borough attorney has weighed in. It could be dangerous or not. **LAPP** and **WATERMAN** agreed. **LAPP** said the U.S. Supreme Court basically turned it down. He doesn't understand why the Haines Borough would go against the Supreme Court and the Webster's Dictionary. **VICK** said he would not approve this without the attorney opinion.

Motion: WATERMAN moved to "send the proposed charter amendment language to the attorney for an opinion on the impacts or lack thereof," and it carried 4-3 with **LAPP**, **SMITH**, and **SCHNABEL** opposed and the mayor breaking the tie in the affirmative.

SCHNABEL said she is opposed. This is a movement; a revolution. **SCOTT** said she is not looking to the borough attorney for an opinion but the impact of the action. **BERRY** wants to know how this would affect the corporations and LLCs in this valley. **VICK** doesn't believe the group wants to start a revolution. **WATERMAN** does not believe this is an urgent thing. She doesn't mind taking her time to get it right.

- 2. **LAPP** reported on the 7/23 Finance Committee meeting. They reviewed the negotiated collective bargaining agreement, a FY14 budget amendment ordinance, and a FY13 budget amendment ordinance.

10. UNFINISHED BUSINESS

11. NEW BUSINESS

A. Resolutions

* 1. **Resolution 13-07-473**

A Resolution of the Haines Borough Assembly authorizing the Borough Manager to execute a contract change order with Pacific Pile & Marine, LP for the Port Chilkoot Dock and Letnikof Cove Harbor Renovations project for an amount not to exceed \$242,370.

The motion adopted by approval of the consent agenda: "adopt Resolution 13-07-473."

* 2. **Resolution 13-07-474**

A Resolution of the Haines Borough Assembly designating the acquisition of State of Alaska, Department of Environmental Conservation (ADEC) grant funds for the project entitled Sewer Treatment Plant Health and Safety Upgrades as the number one local state funding priority for fiscal year 2015.

The motion adopted by approval of the consent agenda: "adopt Resolution 13-07-474."

3. **Resolution 13-07-475**

A Resolution of the Haines Borough Assembly correcting a manifest clerical error involving real property account C-SEC-26-0200 for tax years 1998-2012 and authorizing a refund in the amount of approximately \$7,850.

There were no public comments.

Motion: LAPP moved to "adopt Resolution 13-07-475," and the motion carried unanimously in a roll call vote. There was no discussion.

4. Resolution 13-07-476

A Resolution of the Haines Borough Assembly ratifying and adopting the Collective Bargaining Agreement between the Haines Borough and Public Employees Local 71.

WENNER said he understands this is over the budget and wondered if the negotiations could take place prior to the budget next year. SCOTT explained this is a three-year agreement. She consulted with other municipal managers and this is quite common. It's not coincident with the budget anywhere. The budget is a goal, a guideline. EARNEST said the negotiations were begun before the budget process. You cannot force someone to agree. You cannot predetermine the outcome or date for any collective bargaining agreement.

CAMPBELL asked how much it costs the borough to replace an employee who leaves. He has problems with pay scales but no problem with some of the proposed increases.

Motion: BERRY moved to "adopt Resolution 13-07-476," and the motion carried unanimously in a roll call vote.

During the discussion, LAPP said the finance committee met with other assembly members and discussed this. The committee also recommends the process start earlier in the future so it is hopefully concluded prior to the budget adoption.

B. Ordinances for Introduction

*** 1. Ordinance 13-07-336**

An Ordinance of the Haines Borough amending Borough Code Section 2.10.010 to limit the length of borough assembly meetings.

The motion adopted by approval of the consent agenda: "introduce Ordinance 13-07-336 and set a first public hearing for 8/13/13."

*** 2. Ordinance 13-07-337**

An Ordinance of the Haines Borough approving the conveyance by quitclaim deed of Tract B of Alaska Tideland Survey ("ATS") 1464 to the state of Alaska, Department of Transportation and Public Facilities ("ADOT&PF") for the Haines Ferry Terminal Improvements project (state Project #68433) and amending Haines Borough Ordinance No. 12-07-299 to authorize the conveyance of Parcel 3 (Tract C of ATS 1464) to ADOT&PF by quitclaim deed rather than warranty deed.

The motion adopted by approval of the consent agenda: "introduce Ordinance 13-07-337 and set a first public hearing for 8/13/13."

*** 3. Ordinance 13-07-338**

An Ordinance of the Haines Borough, providing for the addition or amendment of specific line items to the FY13 budget.

The motion adopted by approval of the consent agenda: "introduce Ordinance 13-07-338 and set a first public hearing for 8/13/13."

*** 4. Ordinance 13-07-339**

An Ordinance of the Haines Borough amending Borough Code Section 5.18.080 to change the procedure for amending the Commercial Ski Tour Areas Map.

The motion adopted by approval of the consent agenda: "Introduce Ordinance 13-07-339 and refer it to the Government Affairs & Services Committee."

C. Other New Business

*** 1. Board Appointments**

Note: an appointment request was received for a seat on the Historic Dalton Trail RMSA Board. The mayor planned to make the appointment and sought assembly confirmation. The motion adopted by approval of the consent agenda: "confirm the mayor's appointment of John Schnabel to the seat representing sub-zone three (Porcupine) on the Historic Dalton Trail RMSA Board for a term ending 11/2015."

2. Resolution 13-06-469

A Resolution of the Haines Borough Assembly Authorizing an Early Retirement Incentive Program during the period of July 15, 2013 through November 30, 2013.

There were no public comments.

Motion: **VICK** moved to "adopt Resolution 13-06-469," and it was amended to replace it in its entirety with the substitute resolution proposed by the finance committee. The motion, as amended, carried unanimously in a roll call vote. There was no discussion.

3. Changes to Heliskiing GPS Policy

Motion: **BERRY** move to "refer to the Government Affairs & Services Committee the mayor's proposed changes to the Heliskiing GPS Policy, and it carried 5-1 with **LAPP** opposed. There was no discussion.

12. CORRESPONDENCE/REQUESTS - None

13. SET MEETING DATES

A. Government Affairs & Services Committee - Monday, 8/12, 5pm - Topics: election code ordinance and borough ordinance to limit the length of assembly meetings.

B. Personnel Committee - Monday, 7/29, 10am - Topic: Borough Manager Contract Language.

C. Ad hoc Ferry Committee - Monday, 8/19, 10am

D. Ad hoc Non-profit Funding Committee, Monday, 8/5, 12noon (and again at 5pm, if needed)

14. PUBLIC COMMENTS

WEISHAHN asked what happens after the Government Affairs & Services Committee meets and comes back with information about the GPS policy. **SCOTT** responded that one part would be an ordinance and the assembly would decide whether to schedule a public hearing. The other is a policy statement that could be approved by majority vote of a motion.

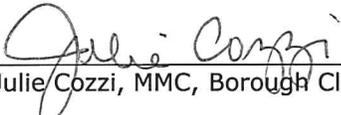
CAMPBELL said the borough should make a decision about how far out of bounds would be acceptable for the heliskiiers---an inch? a foot? He compared it to speeding. In a 35-mph zone, does a driver get pulled over for going 37 mph? It's a discussion that needs to happen. He has had far more conflicts with tour companies relating to their buses.

15. ANNOUNCEMENTS/ASSEMBLY COMMENTS

16. ADJOURNMENT - 9:44pm

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

ATTEST:


Julie Cozzi, MMC, Borough Clerk




Stephanie Scott, Mayor

