

Haines Borough
Borough Assembly Meeting #263
February 11, 2014
MINUTES

Approved

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

2. ROLL CALL

Present: Mayor Stephanie **SCOTT**, and Assembly Members Jerry **LAPP**, Debra **SCHNABEL**, Dave **BERRY**, George **CAMPBELL**, Diana **LAPHAM**, and Joanne **WATERMAN**.

Staff Present: Julie **COZZI**/Interim Borough Manager, Michelle **WEBB**/Interim Clerk, Krista **KIELSMEIER**/Administrative Assistant, Carlos **JIMENEZ**/Director of Public Facilities, Simon **FORD**/Interim Police Chief, and Jila **STUART**/Finance Director, Scott **BRADFORD**/Water-Sewer Plant Operator, Ed **BRYANT**/Maintenance.

Visitors Present: Karen **GARCIA**/CVN, Bill **KURZ**, Mike **CASE**, Gina **ST. CLAIR**, Daniel **HUMPHREY**, John **FLORESKE**, Thom **ELY**, Jerry **ERNY**, Glenda **GILBERT**, Brad **RYAN**, Kyle **GRAY**, Don **TURNER III**, Danny **GONCE**, Mike **DENKER**, Alissa **HENRY**, Sara **CHAPPELL**, Janet **HAYES**, Brent **CROWE**, Kristin **WHITE**, Brenda **JOSEPHSON**, Roy **JOSEPHSON**, Libby **KURZ**, and others.

3. APPROVAL OF AGENDA & CONSENT AGENDA

The following Items were on the published consent agenda:

Consent Agenda:

- 4 – Approve Assembly Meeting Minutes
- 8B – Chief Fiscal Officer Report
- ~~11A1 – Adoption of Resolution 14-02-532~~
- 11A2 – Adoption of Resolution 14-02-533
- 11A3 – Adoption of Resolution 14-02-534
- 11B1 – Introduction of Ordinance 14-02-367
- 11B3 – Introduction of Ordinance 14-02-369
- 11C1 – Board Appointment
- ~~11C2 – Confirm Administrative Policy re. Heli-Map Review Cycle~~
- ~~12A – Request for Letter of Support for Grant Funding~~
- 12B – Discussion of Borough Letter to the Mental Health Trust (added)

Motion: **WATERMAN** moved to “approve the agenda and consent agenda,” and it was amended to: remove item 6A from the agenda, remove 11C2, 12A, and 11A1 from the consent agenda, and add 12B – Discussion of Borough Letter to the Mental Health Trust. The motion, as amended, carried unanimously.

* **4. APPROVAL OF MINUTES** – Regular: 11/12/13 & 12/10/13, Special: 2/5/14

5. PUBLIC COMMENTS [Any topics not scheduled for public hearing]

HENRY spoke as the president of the Chilkat Valley Preschool (CVP) and asked the borough to reconsider the termination of the Human Resource (HR) building lease. She asked the assembly to consider extending the lease 1 more year. CVP was excited to explore other options than the HR building, but needed more time to secure grant funding and purchase a proposed modular building. Strict licensing requirements require additional time as well. CVP highlighted their role in providing quality early education programs which contribute to community success.

HAYES supported **HENRY**'s statements and also stated continuity was important for children of preschool school age. Therefore, allowing the CVP to arrange for a gradual transition from HR building was important.

CROWE is a fisherman and has lived in Haines for several years with his two small children. The CVP program was very important for his family. The Head Start program was full and CVP was better fit for his family. He could live elsewhere in the summer, but Haines is important and this program is important. He felt an extension of the lease was critical for the CVP non-profit.

RYAN was a part of the previous sale discussion of the HR building with the Chilkoot Indian Association. He understood the building may be a loss. He asked the borough to take under school age children into consideration of their deliberations, as it is a program which will attract and keep families in town.

WHITE is a mom and teacher. She urged for the extension of the CVP lease.

ELY spoke to ordinance 14-02-368 which will authorize more snow machines and ATVs use in the borough. He stated, when a similar ordinance was introduced previously, Chief Lowe spoke against it. He did not see any noticeable changes in this ordinance. **ELY** was concerned about a high injury rate of motorized vehicles, that this ordinance would be hard to enforce, and that vehicles would cut corners and tear up private and public property. Further, these machines would interfere with walkers and bikers. He felt this ordinance was in retaliation to the closure of the Chilkat River Beaches area to motorized vehicles.

Motion: **LAPHAM** moved to reconsider her vote on the lease for the CVP. The motion carried 5-1 with **CAMPBELL** opposed.

In discussion, **SCHNABEL** wished to wait until the assembly had met with the school board to reconsider this matter. **COZZI** clarified a motion could be reconsidered and then postponed till a later date.

Motion: (on the table after reconsideration) "adopt Ordinance 13-12-357". The motion was amended to revert back to the lease language, and then further amended to the termination date of the lease to June 30, 2015 and remove section 14. – Renewal.

In discussion, **SCHNABEL** reminded the assembly that the original request was for a termination date of December 31st, 2014. She asked when the program's year end was. **HENERY** answered the program ended in May 28th approximately, but would need the summer of 2015 to move. **JIMENEZ** stated he did not foresee any additional capital expenditures between now and the summer of 2015. **CAMPBELL** felt for the organizations, but had been told by parents that other programs are available. He proposed to have the CVP program take over the maintenance of the building for the additional year. **BERRY** felt the needs of the children should be the first priority. He encouraged granting them the extra time.

In discussion, **WATERMAN** stated **JIMENEZ** had reported the building was in good enough condition to proceed without additional investment. However, she was concerned about the safety of the children. She would like the CVP to take proactive action and come to the assembly. The assembly supported the organization through free rent and through grant funds for a number of years. **CAMPBELL** asked about postponing this decision to have the CVP present their transition plan at a further meeting. **BERRY** clarified that even with a renewal clause; a renewal would have to come back before the assembly. **LAPHAM** and **WATERMAN** were in favor of renewal. **CAMPBELL** stated this would allow time for CVP to move and for construction.

6. MAYOR'S COMMENTS/REPORT

A. Clean Harbor Presentation (Removed from Agenda)

The mayor read her written report which was included as a supplemental document. **COZZI** clarified the Committee-of-the-Whole (COW) meeting in the report was Feb. 26th, not March 26th.

7. PUBLIC HEARINGS

A. Rehearing on Appeal of a Planning Commission Decision – St. Clair Request for Exemption

ST. CLAIR stated she was asking for the assembly to declare that the water and sewer on North Sawmill were unavailable to her proposed subdivided property. With a significant tax increase she wished to sell the northern portion of her land. This was to be her retirement

investment. She stated the cost to provide water and sewer, as required by code, would be over \$100,000 with many hurdles. The property was only valued at \$60,000. If the situation regarding the requirement for water and sewer was not remedied, then her property value would plummet and the land would be deemed unusable. She felt this portion of code was difficult and poorly written. It should not apply to a single, large, subdivision. She contested the land had been previously subdivided, but the subdivision was never documented. The code was flawed because it allowed for measurements from any lot line. She felt measurements should be left out of code and that staff opinion was a poor criterion. Instead, she felt code should state under what conditions staff could grant an opinion. She stated a utility engineer or even the planning commission (PC) would be more qualified to consider an exemption. Code limited what power staff and the PC had, and felt this had tied their hands. Extension of utilities through the borough utility right-of-way would cause a number of issues, disrupt an andromedus fish stream, and only allow two additional customers to connect. She felt a N. Sawmill Road utilities extension would be a poor choice to provide Moose Lane with service. However, an extension from Piedad Rd. would allow service to an additional 14 lots and could be constructed under the existing road. If an exemption was granted, DEC would still have to approve any independent water and sewer systems. Also, the new owner of her property could participate in a local improvement district (LID) to extend water and sewer to the property. **JIMENEZ** stated the obstacle to extend utilities was not insurmountable. Cost estimates would be difficult to predict without engineering. **SCHNABEL** was concerned there was not enough information. **SCOTT** stated the head of the PC and **JIMENEZ** have visited the site, and the terrain was similar to what **ST. CLAIR** described. However, both agreed to with code.

Mayor **SCOTT** opened and closed the public hearing at 7:33pm; there were no public comments.

Motion: **SCHNABEL** moved to "reverse the planning commission's decision and allow an exemption from the requirement". The motion carried unanimously.

In further discussion, **SCHNABEL** stated she felt utilities were not reasonably available. **CAMPBELL** stated this area was rural residential, and he applauded the work of staff and the PC who followed code so thoroughly. He stated the mains did not have to be extended, just small lines. However, small extensions would not help the borough provide service to this area. However, these residents seemed content without water and sewer services at this time. **BERRY** felt the error was using the lot line which would be created as the measuring point, not the old lot lines. He hunted in the area's difficult terrain and was in favor of the motion. **LAPHAM** and **WATERMAN** felt this section of code needed to be revisited. **WATERMAN** asked the assembly to be cautious of the precedence that was set. **LAPP** supported this motion and agreed code should also be reviewed to see if the same subdivision rules should apply to all sizes of subdivisions. **SCHNABEL** stated, as the PC liaison, the PC denied this appeal because it was not in their power to grant the exemption.

A 5 min. recess was given.

B. Ordinance 14-01-363 - Second Hearing

An Ordinance of the Haines Borough amending Haines Borough Code Sections 2.50.030, 2.56.011, 2.60.055, 2.98.040, 2.100.040, 2.104.040, 2.105.040, 7.04.080, 16.08.010, and 18.30.040 to revise the procedure for filling board, committee, and commission vacancies.

Mayor **SCOTT** opened the public hearing at 7:54pm.

DENKER helped to draft this ordinance and supported its passage. He felt this ordinance fixed issues, holes in code, and concerns about due process.

Mayor **SCOTT** closed the public hearing at 7:56pm.

Motion: **LAPP** moved to "adopt Ordinance 14-01-363." The motion carried 5-1 with **CAMPBELL** opposed.

There was no discussion.

C. Ordinance 14-01-365 - Second 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 7:57pm; there were no public comments.

Motion: BERRY moved to "advance Ordinance 14-01-365, as amended by staff recommendation, to a third public hearing on 2/25/14." The motion carried unanimously.

In discussion, **SCHNABEL** stated she would like to see the use of capital improvement project (CIP) funds instead of townsite service area funds. **STUART** stated the concept of the current funding was to take a "loan" from the general fund to be repaid by the passenger tax. The CIP funds are all currently designated to other projects.

D. Ordinance 14-01-366 - First Hearing

A non code ordinance of the Haines Borough approving the sale to Aspen Management, LLC of Lots 6 and 7 Primary School Subdivision plat No. 2008-21, Haines Recording District, First Judicial District, State of Alaska.

Mayor **SCOTT** opened the public hearing at 8:06pm.

ELY believed the property was undervalued, and referred to a past sale from a few years ago.

Mayor **SCOTT** closed the public hearing at 8:07pm.

Motion: LAPP moved to "advance Ordinance 14-01-366 to a second public hearing on 2/25/14." The motion carried 5-1 with **CAMPBELL** opposed.

In discussion, **CAMPBELL** moved to amend the ordinance "to add a condition that the property remains on the tax rolls for a minimum of 10 years". The motion died from a lack of a second. **CAMPBELL** said it was not in the borough's best interests to proceed with the sale without a guarantee that the borough could collect taxes on the property.

E. Ordinance 13-10-352 - First Hearing

An Ordinance of the Haines Borough amending Haines Borough Code Title 13 to revise and clarify water and sewer service procedures.

Mayor **SCOTT** opened and closed the public hearing at 6:49pm; there were no public comments.

Motion: BERRY moved to "postpone ordinance 13-10-352 to the 2/25/14 meeting". The motion carried unanimously.

In discussion, it was found this ordinance was not in the packet. The Government Affairs and Services Committee was not able to review the ordinance at their meeting.

8. STAFF/FACILITY REPORTS

A. Interim Borough Manager - 2/11/14 Report

COZZI stated, in addition to her written report, that Sosa's first day in the office as borough manager will be April 8th and the borough had a signed contract with. Also, that interim clerk/deputy clerk **WEBB** was getting married on Friday.

***B. Chief Fiscal Officer Report - 2/5/14 Report**

9. COMMITTEE/COMMISSION/BOARD REPORTS & MINUTES

A. Assembly Standing Committee Reports

BERRY reported on the Government Affairs and Services Committee. He said they recommended staff look into expanding the borough's role in extending water and sewer services. However, the meeting with the Moose Lane property owners showed that many residents were not in favor of a local improvement district.

10. UNFINISHED BUSINESS

A. Ordinance 13-12-358

An Ordinance of the Haines Borough amending Borough Code Section 18.80.030 to add setback regulations to the General Use zone and to correct a typographical error to make it consistent with the Section 18.20.020 definition of setback.

Motion: BERRY moved to "assign Assembly Member Schnabel to work with the planning commission to reconcile proposed ordinance 13-12-358 and adopted ordinance 13-12-360, and postpone adoption of the ordinance until that work is completed." The motion carried 5-1 with CAMPBELL opposed.

In discussion, SCHNABEL said this was what she had volunteered to do. CAMPBELL asked if SCHNABEL had already met with the planning commission chair, and she answered no. CAMPBELL said the state fire marshal already has rules for distance between properties, and therefore, this may already be taken care of by state law.

11. NEW BUSINESS

A. Resolutions

1. Resolution 14-02-532

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 \$43,355.45.

Motion: BERRY moved to "adopt Resolution 14-02-532" and the motion carried unanimously.

In discussion, SCHNABEL asked about the line item which paid the borough to administer the project. STUART said the legislative grant allows up to 10% to pay ourselves for project administration. The borough uses actual costs for administration. CAMPBELL believed if the state allowed 10%, then the full percentage should be charged to the grant. He would like to see a blanket 10% for all projects. STUART stated this was unnecessary, as all the money will be used on the project.

*** 2. Resolution 14-02-533**

A Resolution of the Haines Borough Assembly authorizing the Borough Manager to execute a contract with Southeast Road Builders to provide 2014 snow removal services for the Cathedral View/Piedad Area Subdivisions.

The motion adopted by approval of the consent agenda: "adopt Resolution 14-02-533."

*** 3. Resolution 14-02-534**

A Resolution of the Haines Borough Assembly authorizing the Borough Manager to enter into a construction contract with Behrends Mechanical for the Haines School Fans Replacement project for an amount not-to-exceed \$319,235.

The motion adopted by approval of the consent agenda: "adopt Resolution 14-02-534."

4. Resolution 14-02-535

A Resolution of the Haines Borough Assembly authorizing the borough attorney to petition the Regulatory Commission of Alaska to intervene in Docket Number U-14-002, the rate making case filed by Alaska Power Company, and to represent the borough in that proceeding.

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

GONCE, who works for Alaska Power and Telephone (AP&T), stated the proposed 18% increase will only be applied to a portion of user's bill. Therefore, if this increase will be authorized, it will only result in about a 10% increase to most people's bills.

Mayor SCOTT closed the public hearing at 8:23pm.

Motion: WATERMAN moved to "adopt Resolution 14-02-535," and the motion carried 4-2 with CAMPBELL and LAPP opposed.

In discussion, SCOTT stated an intervention into this matter may cost about \$1,400 to consultant and 10-20 hours with attorney. CAMPBELL asked about additional hours, and SCOTT clarified that she believed no more than 20 hours would be billed. Costs are unknown for the project as a whole, but each step will be authorized by the assembly. SCHNABEL was also concerned about the price of this. However, she felt that this was a fight worth taking up. SCOTT stated the borough was just following the process to have the right to participate. By taking this action, the borough will become a party in the case. The whole issue may not be resolved until 2015. CAMPBELL felt the cost of the intervention was too high, and was against the resolution.

B. Ordinances for Introduction

*** 1. Ordinance 14-02-367**

An Ordinance of the Haines Borough amending Haines Borough Code Title 2 Section 2.10.040 to modify assembly meeting minutes procedures.

The motion adopted by approval of the consent agenda: "introduce Ordinance 14-02-367 and set a first public hearing for 2/25/14."

2. Ordinance 14-02-368

An Ordinance of the Haines Borough amending Haines Borough Code Chapter 10.34 to authorize the use of ATVs on streets and highways within the borough and allowing use of snow machines on highway shoulders within the borough.

Motion: LAPP moved to "introduce Ordinance 14-02-368 and set a first public hearing for 2/25/14." The motion carried unanimously.

In discussion, LAPP told the assembly a similar ordinance had been brought forward previously. However, he took exception that this was in retaliation to the restriction on the Chilkat River beaches. He voted against the ordinance in its previous incarnation. He has changed this ordinance with the removal of several sections, some of which pertained to administrative permitting. ATVs will follow the same rules as snow machines on streets in Haines. CAMPBELL asked if golf cart should also be included and SCOTT read the definition at the end of the ordinance which explained that golf carts were excluded. LAPP stated he had discussed this ordinance with FORD, and he had no objection to this on concept. LAPP felt the road can be successfully shared by all users.

*** 3. Ordinance 14-02-369**

An Ordinance of the Haines Borough amending Haines Borough Code Title 18 Section 18.30.050 appeals to the commission to conform to the requirements of filing an appeal.

The motion adopted by approval of the consent agenda: "introduce Ordinance 14-02-369 and set a first public hearing for 2/25/14."

C. Other New Business

*** 1. Board Appointments**

The motion adopted by approval of the consent agenda: "confirm the mayor's appointment of Scott Sundberg to the Tourism Advisory Board for a term ending 11/2016."

2. Confirm Administrative Policy re. Heli Map Review Cycle

Motion: CAMPBELL moved to "confirm the administrative policy as written".

Motion: CAMPBELL moved to "postpone this item to the 2/25/14 meeting," and the motion carried unanimously. This motion superseded the previous motion.

In discussion, CAMPBELL spoke in favor of this policy. However, he was concerned about the weather being poor for heliskiing. He felt the previous removal of three commercial ski

areas has negatively affected the industry. Additionally, community involvement every three years, instead of every year, and having the new manager, would improve the process. **WATERMAN** saw the decision, which was made in July regarding the map areas, as a separate issue from the policy being discussed. **COZZI** was concerned that there was no wiggle room in the current proposed policy if areas needed to be added or subtracted by state order or in an emergency. **SCOTT** stated that the policy was not law, but a statement of preferred practice. **CAMPBELL** stated he was not comfortable with passing a policy with flaws. **SCHNABEL** clarified that **CAMPBELL** would like the postponement of the policy to change the map and fix some issues. **BERRY** was concerned that this had been addressed four times in the GAS committee.

3. Confirm Chief of Police Hire

Motion: **CAMPBELL** Confirm the manager's decision to hire William Musser as Chief of Police for the Haines Borough. This motion carried 5-1 with **SCHNABEL** opposed.

COZZI asked for confirmation of William Musser as her choice of Chief of Police. After the motion was made, she explained she had been increasingly impressed with Musser as a candidate. The background checks and references have come back very positive, some of which were read out loud by **COZZI**. The one criticism of the candidate was that sometimes he talked down to people. Musser stated he was working very hard on addressing this concern. Musser was described as gentle, professional, and humble. It was reported that Musser, if offered the position, would not accept anything higher than \$75,000 a year salary proposed by the assembly until the training and probationary period was finished. He stated he could start on Feb. 27th if offered the position. **SCHNABEL** asked how the Public Safety Commission (PSC) felt about this candidate. **COZZI** reported they recommended that **FORD** be encouraged to take the position, and if he declined, to start over with the recruitment process. While she disagreed with the PSC recommendation, she emphasized that a 1 year probationary period would be in place. **CAMPBELL** agreed with the manager's recommendation.

12. CORRESPONDENCE/REQUESTS

A. Request for Letter of Support for Grant Funding – Takshanuk Watershed Council Letter

Motion: **BERRY** moved to "send the letter of support", as amended to change "will become a part" to "could become" in the last sentence. The motion carried unanimously.

In discussion, **LAPHAM** questioned if this report would become a part of the Haines Borough snow removal plan. She stated her concern that dump sites would be lost. **BERRY** remarked that when the CIA building was built, a snow dump area was removed. There are also plans to further develop land which will remove a large snow dump site on 2nd Ave. **RYAN**, with the Takshanuk Watershed Council (TWC), reported that snow removal issues continued to be brought up to him. The State Department of Environmental Conservation (DEC) had asked if the TWC was working with the borough to develop a plan. If this grant was awarded, it may benefit the borough instead of having to work through a more expensive contractor. It was suggested that perhaps grant funding could be used to purchase land for snow dump use. **RYAN** appreciated **JIMENEZ's** and Ralph Boarder's work to immediately remedy concerned areas. **JIMENEZ** stated that it is commonly known that beach dumping will no longer be an option soon. The manager has directed him to start looking at other lots for use. He supported this grant application and plan.

A 5 min recess was given

B. Discussion of Borough Letter to the Mental Health Trust – This item was added to the agenda

In discussion **LAPP** stated that the letter sent to the Mental Health Trust misrepresents the Haines Borough. He felt the assembly should have weighed in on this. **SCOTT** stated that she felt that the Mental Health Trust may have misinterpreted the Comprehensive Plan, and she asked that staff to write the letter to address it.

Motion: **CAMPBELL** moved "that a retraction be sent immediately." The motion carried 4-2 with **WATERMAN** and **SCHNABEL** opposed.

In further discussion, **LAPHAM** also felt this letter misrepresented the borough. She felt the Comprehensive Plan was not cast in concrete and agreed with the motion. **CAMPBELL** also felt that this letter should have come before the assembly. He proposed that each of the assembly members should sign the retraction letter. **BERRY** stated that with decreasing population, the borough should seek development opportunities. He felt that the letter sent by the borough seemed to state there was no mineral extraction in area, which is untrue. **SCHNABEL** would like to enter in conversation with the Mental Health Trust about this matter. The mayor offered to write the retraction letter. **LAPP** and **SCHNABEL** agreed some areas would not be suitable for mineral extraction, but not all areas. **SCHNABEL** suggested the assembly educate themselves about the proposed type of mining. **LAPP** emphasized that the Mental Health Trust letter spoke mostly to exploration. **LAPHAM** was glad this important issue was being discussed.

13. SET MEETING DATES

A. Government Affairs and Services Committee – Wednesday, March 5th at 5:30 pm

To discuss: unfinished business, the planning commission request to develop a policy allowing exemptions and/or deferral to participation in LIDs from their 1/9/14 recommendation, and election reform.

B. Commerce Committee Wednesday the Feb. 26th, 4:00pm

To discuss the severance tax, municipal solid waste, commercial vehicle permits, and the Board of Fisheries solicitation for the next meeting.

C. Joint Tourism Advisory Board/Borough Assembly Meeting

A meeting was discussed to review the hire of a new tourism director, but no meeting was set. **SCOTT** recommended meeting as a COW first and waiting till Mr. Sosa was in place, as the Tourism Director is a manager hire. She considered including this discussion for the COW on February 26th. Tanya Carlson's last day as Tourism Director will be April 9th. **LAPP** was identified as the liaison to the TAB.

D. Finance Meeting – To Be Announced

14. PUBLIC COMMENTS

ELY felt it was discouraging to see the assembly waffle and revisit issues. He encouraged the assembly to make decisions and stick to them. He would like to see more consensus and action from the assembly.

KURZ announced that on March 8th the Chamber of Commerce will hold an Economic Summit from 10 am to 3 pm. He encouraged people to attend and discuss what the economy is doing and hopes to do.

BRYANT believed that people on ATVs are fairly safe and supports more ATV use in the Haines Borough.

15. ANNOUNCEMENTS/ASSEMBLY COMMENTS

BERRY stated he will not be able to participate in the Feb 25th meeting.

LAPHAM heard that the Juneau assembly was looking at the Water Sewer rates. She thought it was interesting they were looking at the cruise ships to help support the cost of water and sewer service.

SCOTT agreed. She stated the Municipality of Skagway built a \$2.5 million Water/Sewer plant with their seasonal passenger vessel tax.

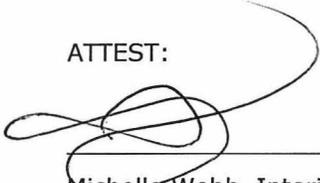
LAPP wanted to acknowledge the rights of land owners without undue restrictions.

CAMPBELL thanked staff for the help calling in while he was out of town.

16. ADJOURNMENT - 9:37pm

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

ATTEST:



Michelle Webb, Interim Borough Clerk



Stephanie Scott, Mayor