

Motorized Use on Chilkat Beach

From: George Campbell

To: Assembly

The discussions surrounding making the Chilkat Beach non-motorized have been emotionally charged, and often argued for emotion sake. Conversations ignore credible reasons why the existing ordinance should be tailored to be effective.

Limiting speed limits, use to existing trails, and constructing bridges at crossings of the creek will solve most all of the solvable problems. It will be an approach that will ultimately become supported by every user, and be a suitable compromise to achieve the safety of users, protect the stream, and allow folks to live their life as they choose in "The Adventure Capital of Alaska".

First and foremost, the discussion evolved out of the actions of one individual. That individual, if what folks claim is true, broke no less than three state laws while creating the problem. While considering adding additional regulation, we the Assembly must be concerned that present laws have not been enforceable, so additional laws will surely suffer the same fate.

Being effective should be important to the assembly. Passing laws that are either unenforceable, or do not achieve their intended goal is not effective.

I have been told that the public is apathetic towards the Borough Government. I have heard members of the public say that the Assembly wastes time and has no direction. This particular ordinance actually typifies the behavior citizens complain so often about, the existing ordinance is a reaction and punishment with no thought into how it effects the community in moving forward.

My belief is passing the proposed ordinance will not achieve the desired results, and perpetuate the belief that the Assembly is impotent and ineffective.

While listening to the public, and reading the letters on record, it appears that the following are reasons for making the Chilkat Beach's forelands non-motorized:

1. One individual has operated at a high speed, causing conflicts with walkers
2. Salmon stream damage
3. Damage to the ground caused by one individual's operations
4. The operator would get drunk and then go out and spin doughnuts
5. ATV noise is incompatible with present use

In public testimony it was stated that the land owner, Alaska State DNR, Land, Mining and Water had listed this area as a Non-Motorized area in their management plan. That statement is incorrect, the plan states: No Commercial Motorized. Also it

has been stated that no motorized user has been on the beach in ten years; that statement is also false, just many of the users in the past ten years have been considerate and passed through the area without causing a kerfuffle.

As to the five issues:

1. Any operation of a vehicle, on or off road, carries with it a responsibility. When the operator of a motorized vehicle does endanger other's lives, especially when it can be anticipated that others will be present, the operator can be cited and charged with "reckless endangerment". This charge carries serious penalties. The operator of the ATV could have been charged for reckless endangerment if the claims are true, so we currently have a law to use to prevent that behavior.
2. Operations of motor vehicles in the small stream on that beach is regulated by the State Anadromous Stream Act. Without permits, operation of a motor vehicle in that stream is against the state law, there are at least five Officers of the Law working in Haines sworn in with full privileges of the Alaska State Troopers. Any of the five had the authority to cite the operator for that act, our own police could also have done so.
3. Damage of the area from tire tracks and continuous use is an argument that does carry some merit. Yet we must consider that previous use of that beach included 4x4s and ATVs, some of the old paths that were "damaged" in previous years are used today by walkers and bikers. Also, the ponds were created when DOT upgraded Mud Bay Road many years ago, excavating material for road bed. Houses have also been built in the grass area, so the term "damage" is a personal judgment when considering the type of ground being discussed. The lower beach, below the mean high tide, is washed and scoured twice a day with the tide, so any "damage" to that area will be removed in short order by nature.
4. Operation of a motorized vehicle while under the influence of alcohol is against state law; additionally the operator that caused this is under legal drinking age. Any law enforcement officer in town should cite individuals for that action. (please note that one Borough Police Officer's house is next to this beach and looks out over this beach)
5. ATV noise is incompatible with present use. Without arguing the specific statement, it only makes sense to consider the location and activity surrounding the Chilkat Beach foreland.

Mud Bay Road borders the entire length of the beach. On the road you will see cars, trucks, school busses, motorcycles (including Harley Davidsons), and all manner of motorized vehicles, some much louder than atvs. From Mud Bay Road to the tide line the furthest distance is less than 500'.

Separating the two sections of forelands are four private lots, with three residential houses. There is no restriction from people operating atvs on

these lots, (note at least two of the property owners have atvs), nor is any restriction to operating lawn mowers, leaf blowers, brush cutters, wood splitters, generators, chainsaws or any manner of internal combustion engines on the private property.

Below the tide line (mean high tide), there will be no enforcement of municipal code. Our townsite ends at Mean High Tide, which is the Borough Police jurisdiction. Trooper Policy is that they do NOT enforce municipal code. Even with a Borough ordinance, there will be no deterrent to motorized operations in this area. Additionally, the courts have upheld challenges to Municipal and Borough governments ability to restrict activity below Mean High Tide. The results of an attempt to enforce restrictions in the tidal area will likely be costly for the Borough resulting in a decision stating that the Borough does not have the authority to restrict motorized use below the mean high tide line.

The entire section of beach is below and beside the approach/departure route of aircraft using the Haines Airport. All manner of aircraft will pass overhead, creating additional noise for the area.

The noise argument, though understandable, is not defensible. The furthest a person can be from the surrounding motorized areas will be less than 250'. To argue that this is a "quiet place" with all manner of legal motorized use surrounding the area is nonsensical.

There have been statements made that this beach is the last beach left for folks to walk in the area. This is not a fact based statement. While I will agree that it might be convenient for some, I will also refer to a beach by the mouth of the Chilkoot River, beach at Tank Farm Point (that has bathrooms and picnic areas), beach along the road between the Tank Farm Point and town (with pull outs along the highway to park off of the road), beach between the harbor and Portage Cove cliffs, beach by Batter Point, beach at Chilkat State Park (which I again will point out the park is almost 10,000 acres of non-motorized), Cannery Cove beach, beach in Paradise Cove, Flat Bay, and the nice folks at Viking Cove have allowed public to access the Viking Cove beach also.

Often people speak about stakeholders, and the importance of bringing all of them into discussions and decisions. Yet this issue, which concerns probably more than 50% of our community, has been taken to two committees and back to the Assembly without the Borough making any attempt to include motorized representatives in the discussions. So far the action has been created and motivated by less than 1% of the Borough population.

This ordinance is a poster child for: Not In My Back Yard. The limited use the beach sees does not warrant the blanket ban on one of the largest user groups in the valley, especially considering all user groups have folks that are disrespectful to

others and will cause conflicts. It will not make the beach less noisy, new ordinances will not be any more enforceable than current laws that have not been enforceable, and it can not stop motorized use below the mean high tide line.

I suggest that the Assembly rethink it's approach to this issue, and rewrite this legislation so that it achieves the desired affect, and not needing future legislation to be effective.