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Assembly Meeting -- June 28, 2016

Agenda item 7A. Issue: Heliski Map Committee

The Resolution before you does not comply with Borough Code. Therefore, the Assembly must not pass it. However logical it may be to ignore Code, there is no power to do so; it must be followed, or it must be changed and then followed. Code cannot be amended by a resolution; it must be an ordinance. It cannot be ignored.

--operator requests were timely
-- nothing else is

Clerk Cozzi clearly articulated the timing difficulties presented by the current law in her email (in your packet) to Heidi Robichaud, dated June 15 of this year. As she explained:

-- The assembly must, by resolution, authorize the manager to convene a map committee
-- proposals to amend the map will be accepted May 1 - 31.
-- the manager picks a committee, to be convened before June 10
-- Committee will include specified folks (conservation, Assembly, etc.
PLUS folks who have petitioned to be on the committee
-- Committee will make recommendations before July 15.

The first 15 or 20 times I read those sections I read them the way everyone else is reading them: The industry (or someone) requests changes by May 31; the Assembly [immediately] adopts a resolution; the manager convenes a committee before June 10; recommendations made to the assembly before July 15. Whew. Seems pretty impossible.

But I submit that there's a different way to look at these provisions. The way we are all reading them, this is an operator driven process. The first thing that happens is that the operator (or another party, like a resident

under a flight path) requests changes, and THEN these impossible timing provisions kick in, and you just can't do it in compliance with code.

But suppose we are all reading this stuff wrong. Suppose this is a Borough-driven process. The FIRST thing that happens is that the assembly passes a resolution, starting the process for change. There's no date in that Code provision. Suppose the Assembly passed that resolution in March or APRIL, right after the end of the ski season. THEN the industry and others could submit proposals May 1-31. Meanwhile, ever since the resolution passed, the manager has been busy putting a committee together - soliciting applications to serve, talking to conservation organizations, getting the Assembly to appoint a member, and so on. Then, everyone is ready to roll by June 1, they convene by June 10, and maybe even can make recommendations by July 15.

I submit that's the way we should read the current code: Borough/public driven, not operator driven. I think that's what it says. But the major flaw in this system is that -- with all due respect -- the Assembly hasn't a clue when the map needs attention, or how it should be changed. The concerned parties are the operators, their clients, other back-country users, and residents who live under or near flight plans and other activities.

I think a couple of small amendments to code would make this a workable system. The first part (HBC 05.18.080, Section I,1) reads

To initiate nontemporary amendment of the Haines Borough Approved Commercial Ski Tour Areas map, the assembly shall adopt a resolution, following a public hearing, that articulates the reasons to consider amendments to the map and authorizes the borough manager to convene a heliski map committee according to the following procedures:

That provision could be changed by adding a few words:

*To initiate nontemporary amendment of the Haines Borough Approved Commercial Ski Tour Areas map, the assembly, **on its own initiative or at the request of an interested party**, shall adopt a resolution following a public hearing **held no later than April 15**. **In the resolution the Assembly shall** [THAT] articulate[S] the reasons to consider amendments*

to the map and authorize[S] the borough manager to convene a heliski map committee according to the following procedures:

The rest of the timing provisions could be left pretty much alone, although I'd recommend giving the committee more time to do its work. Code now says the recommendations are due to the manager *on or before July 15*. Instead, I'd suggest that the Code be changed to say **as soon as practicable but not later than October 1.**

Again, I think that the resolution before you is illegal, and you should not adopt it. SEABA would be restricted to its currently authorized locations for another year. But if you make my proposed changes to the Code, I believe everyone -- operators, public, back-country users and skiers -- will be protected.