



Haines Borough
Planning Commission Meeting
July 11, 2013
MINUTES

Approved

1. **CALL TO ORDER/PLEDGE TO THE FLAG** – Chairman **Goldberg** called the meeting to order at 6:30 p.m. in Assembly Chambers and led the pledge to the flag.
2. **ROLL CALL** – **Present:** Chairman Rob **Goldberg**, Commissioners Rob **Miller**, Andy **Hedden**, Don **Turner III**, Danny **Gonce**, Lee **Heinmiller**, and Robert **Venables** (called in between 6:43 p.m. and 8:17 p.m.)

Staff Present: Xi “Tracy” **Cui**/Borough Planning & Zoning Technician III, Mark **Earnest**/Borough Manager

Also Present: James **Studley**, Neil **Einsbruch**, Mark **Sogge**, Cecily **Stern**, Jack **Wenner**, Mario **Benassi**, Carolyn **Weishahn**, Leonard **Dubber**, and Erwin **Hertz Sr.**

3. **APPROVAL OF AGENDA**

Motion: **Turner** moved to “approve the agenda”. **Heinmiller** seconded it. The motion carried unanimously.

4. **APPROVAL OF MINUTES** – June 13, 2013 Regular Meeting

Motion: **Turner** moved to “approve the June 13, 2013 Regular Meeting Minutes.” **Miller** seconded it. The motion carried unanimously.

5. **PUBLIC COMMENTS** – None

6. **CHAIRMAN’S REPORT**

Goldberg said he had a meeting last night regarding the replacement of the public safety building. The Borough has received the drawing designs from the architect. There are several questions that have been brought up, and the Borough is going to send feedback and concerns to the architect.

7. **STAFF REPORTS**

Cui reported recent permitting and enforcement activities.

8. **PUBLIC HEARINGS**

- A. Mark Sogge & Cecily Stern – Appeal of Enforcement Order**

Goldberg said it was his advice to **Sogge** and **Stern** that has created this situation, so he will recuse himself from the decision and decisions in this matter.

Gonce opened the public hearing at 6:37 p.m.

Sogge stated that he is appealing the enforcement order requiring the payment of \$250 after-the-fact fees for operating a lodging rental business without a conditional use permit. **Sogge** said they first decided to advertise their property as a vacation rental; they came to the Borough office and got an application for a conditional use permit as they thought one would be required. However, they mentioned to Planning Commission Chairman Rob **Goldberg** that they were going to apply for a conditional use permit for

the vacation rental they planned to operate, Rob said that he didn't think the permit would be required since this was an unoccupied single family residence being offered for rent, and it is the only house on the property. **Sogge** said it was not their intention to violate the code.

Stern said what they are doing is just to rent out their house, which is still a single residential house. The definition of "lodge" in the code does not apply to this case since no other services are provided.

Gonce closed the public hearing at 6:41 p.m.

Heinmiller said this situation pointed to a deficiency in the code. The Planning Commission needs to define "vacation rental" and provide for its use in the code, and also needs to refine the current definition of "lodge".

Hedden said he thinks the definition of "lodge" in the code is inadequate.

Motion: **Miller** moved "to recommend the Borough Administration waive the \$250 after-the-fact fee being assessed to Mark **Sogge** and Cecily **Stern** for operating a vacation rental." **Turner** seconded it. The motion carried unanimously.

B. Mark Sogge & Cecily Stern – Lodging Conditional Use Proposal

Gonce opened the public hearing at 6:50 p.m.

Sogge stated that they are requesting for the Planning Commission to approve a Conditional Use Permit to allow the operation of a lodging rental business on their property. The house is the only single family residence on a 3-acre lot.

Stern said this is a seasonal rental, not a year-round rental. The vacation rental is consistent with surrounding land uses. The property has a well-maintained septic system, a private water source.

Gonce closed the public hearing at 6:52 p.m.

Goldberg said the Planning Commission will discuss changing the definition of "lodge" and adding the definition of "vacation rental" at the next regular meeting.

Motion: **Turner** moved "to approve Sogge & Stern lodging conditional use proposal." **Miller** seconded it. The motion carried unanimously.

C. Neil Einsbruch – Appeal of Enforcement Order

Goldberg opened the public hearing at 6:55 p.m.

Einsbruch said he is being fined for not filing a construction declaration form. He is not aware of this requirement. This fine is unprecedented, and has never been enforced. He has been told that there is no building permit required in his property's area. He is not disregarding the code on purpose. The proposed fine is exorbitant and inconsistent compared to other fines that the Borough imposes.

Goldberg closed the public hearing at 6:57 p.m.

Heinmiller said he saw the public notice of filing construction declaration in the post office.

Turner said not being aware of this requirement is not a reason to not get fined.

Einsbruch said he is not requesting to not get fined, he is saying the \$250 fine is too high.

Goldberg said the Borough started with a \$50 fine, but everyone just ignored it. In order to get people's attention, the Borough decided to raise the fine up to \$250. The code requires a construction declaration form must be filed with the Borough assessor because any new construction should be assessed by the assessor, and then the property owners will pay their property tax. If some property owners do not file the construction forms, then their property tax may not be paid. This is not fair to the property owners who submitted the construction declaration forms to the Borough.

Einsbruch said he is the only person who is being fined. He feels he is "singled out".

Turner asked when the new 2-story building was built.

Einsbruch answered it was built about two years ago.

Turner said that means the new 2-story building has not been assessed for two years. The property tax of these two years would be even higher than a \$250 fine.

Motion: Venables moved "to recommend the Assembly waive the \$250 after-the-fact fee for Neil **Einsbruch**." **Gonce** seconded it. The motion failed 0 to 7 with all the Planning Commissioners opposed.

D. Roger Beasley – Boat Storage Setback Variance

Goldberg opened the public hearing at 7:18 p.m.

Studley stated he represents Mr. Roger **Beasley** as an agent, requesting for the Planning Commission to allow the construction of a boat storage 15-foot into the required 25-foot setback from Sawmill creek. All the necessary documents are in the packet. The Alaska Department of Fish & Game has no objection to this development.

Goldberg closed the public hearing at 7: 20 p.m.

Motion: Gonce moved "to approve **Beasley** boat storage setback variance request with the conditions that there will be an oil/water separator installed, and the drainage system has no discharge into the creek." **Miller** seconded it. The motion passed unanimously.

9. UNFINISHED BUSINESS - None

10. NEW BUSINESS

A. Historic District/Building Review - None

B. Haines Borough Code Amendments – Title 18 Revisions

1. Setbacks and Height Restrictions in HBC 18.80.030

Goldberg stated currently the Borough code does not have setback requirements for general use zone. Setback information can be required in the construction form.

Cui said the code requires a construction declaration should be filed within 60 days of the start of construction. The filing period could be a problem if construction starts before the construction declaration is filed, and the buildings do not meet the proposed setback requirements.

Venables said he is in favor of this code amendment. Expanding the setback regulations in townsite service Borough wide is for public safety concerns. He suggests changing the effective date of the draft ordinance to January 1, 2014.

Gonce agrees to postpone the effective date since the Planning Commission needs some time to amend the filing period of a construction declaration.

Goldberg said the Planning Commission will discuss changing the code for consistency at the next regular meeting.

Motion: Venables moved “to recommend the Assembly adopt the proposed draft ordinance amending HBC 18.80.030(B) with an effective date of January 1, 2014.” The motion passed unanimously.

2. Define “Yurt” in HBC 18.20.020

Turner said he likes the proposed draft ordinance which defines and clarifies yurts, wall tents, RVs as temporary use structures.

Hedden said he saw there is a yurt for sale on the website. It is a 30-foot diameter yurt with concrete foundation and double garage. It obviously seems to be not a temporary dwelling.

Motion: Miller moved “to recommend the Assembly adopt the proposed draft ordinance amending HBC 18.20.020 to add definition of temporary use dwelling.” **Gonce** seconded it. The motion passed 6 to 1 with **Hedden** opposed.

3. Clarify “Small Information Signs” in HBC 18.90.060

Motion: Hedden moved “to recommend the Assembly adopt the proposed draft ordinance amending HBC 18.90.060(I) to add size limitation for small information signs.” **Turner** seconded it. The motion passed unanimously.

4. On-Site Wastewater System Inspection in HBC 18.60.010

Goldberg said that the current code requires the wastewater system must be inspected by a DEC-approved inspector every two years. The Borough should consider removing this from the code since this is not enforceable.

Motion: Gonce moved “to recommend the Assembly adopt the proposed draft ordinance amending HBC 18.60.010(I) to remove the requirement of wastewater disposal system being inspected every two years.” **Miller** seconded it. The motion passed unanimously.

C. Project Updates – None

D. Other New Business

1. ADOT & PF Haines Highway MP3.5 – MP12 Project

Earnest said the ADOT & PF is seeking comments regarding the project’s compliance with the local planning and zoning ordinances. There will be a public meeting on this project in early August, and a lot of technical questions will be discussed at the meeting.

Benassi said the project as currently proposed could negatively impact local fishing and tourism industries as well as subsistence and cultural values in Haines. The plans require cutting hundreds of resting and roosting trees in the Bald Eagle Preserve area. He is in favor of minimizing impacts to the natural environment.

Earnest said he can answer one of the questions regarding trees. The ADOT & PF officials have expressed that they will avoid 100% of the trees they can.

Weishahn stated the Planning Commission and the Assembly need to stand up, point out what is in our comprehensive plan, and let the ADOT & PF know which parts of the project are in conflict with the comprehensive plan. Also, there are concerns from the tour industry. The primary goal of most of the tourists is to observe wildlife in the natural environment. If this project degraded the natural environment along the roadside corridor, then the opportunities to see wildlife are diminished.

Earnest said he would like to work with **Goldberg** to look through the comprehensive plan, mark out and identify the sections that are relevant to the project. He will send the questions and comments back to ADOT & PF.

More discussion ensued.

2. Haines Borough – Lutak Dock Tract B & C

Earnest stated Lutak Dock Tract B & C have a confusing history. The confusion has extended to ADOT & PF, ADNR and Haines Borough. The parties have regarded the Borough as the owner of Tract C, and ADOT & PF as the owner of Tract B, while title documentation shows the exact opposite. ADOT & PF made an offer to purchase Tract C from the Borough, even though ADOT & PF is already the record owner of Tract C. This offer to purchase was conditioned upon the Borough simultaneously issuing a quitclaim deed to Tract B to ADOT & PF, to correct title. The documentations have been reviewed by the Borough attorney. ADOT & PF made this offer to correct record title and move forward with its Haines Ferry Terminal expansion project in the near future.

Motion: Gonce moved to “recommend for the Assembly to further consider the proposal from ADOT & PF to purchase Tract C from the Borough with a condition of the Borough simultaneously issuing a quitclaim deed to Tract B to ADOT & PF.” The motion passed unanimously.

11. COMMISSION COMMENTS

12. COMMUNICATION - None

13. SET MEETING DATES – The next regular Planning Commission meeting is scheduled for 6:30 p.m. on Thursday, August 8, 2013.

14. ADJOURNMENT– 8:56 p.m.