

Haines Borough
Borough Assembly Meeting #274
AGENDA

July 29, 2014 - 6:30 p.m.

Location: Assembly Chambers, Public Safety Bldg.

Stephanie Scott,
Mayor

Dave Berry Jr.,
Assembly Member

Diana Lapham,
Assembly Member

Debra Schnabel, MPA
Assembly Member

Joanne Waterman,
Assembly Member

George Campbell,
Assembly Member

Jerry Lapp,
Assembly Member

David Sosa, MPA
Borough Manager

Julie Cozzi, MMC
Borough Clerk

Krista Kielsmeier
Deputy Clerk

1. CALL TO ORDER/PLEDGE TO THE FLAG

2. ROLL CALL

3. APPROVAL OF AGENDA & CONSENT AGENDA

[The following Consent Agenda items are indicated by an asterisk () and will be enacted by the motion to approve the agenda. There will be no separate discussion of these items unless an assembly member or other person so requests, in which event the asterisk will be removed and that item will be considered by the assembly on the regular agenda.]*

Consent Agenda:

- 4 – Approve Assembly Meeting Minutes
- 8B – Chilkat Center Report
- 8C – Fire Department Reports
- 9A – Planning Commission Minutes
- 9B – Tourism Advisory Board Minutes
- 11A1 – Resolution 11-07-577
- 11A2 – Resolution 11-07-578
- 11B1 – Ordinance 11-07-384
- 11B2 – Ordinance 11-07-385
- 11B3 – Ordinance 11-07-386

*** 4. APPROVAL OF MINUTES – 7/8/14 Regular**

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

6. MAYOR'S COMMENTS/REPORT

7. PUBLIC HEARINGS

A. New Commercial Tours – Alaska Mountain Guides

*Alaska Mountain Guides has applied to add a new tour to their permitted 2014 commercial tour activities. They propose to provide guided canoeing on Chilkoot Lake. AMG is already permitted to operate tours in the Chilkoot River Corridor. The tourism director, police chief, and harbormaster have reviewed the proposed activities and have no objection. HBC Title 5 requires a public hearing before the assembly for all new tour activities. **Motion:** Authorize the borough clerk to process the Alaska Mountain Guides application add a guided canoeing tour to the company's list of permitted commercial tour activities.*

8. STAFF/FACILITY REPORTS

A. Borough Manager – 7/29/14 Report

*** B. Chilkat Center – Facility Report of June 2014**

*** C. Fire Department – Reports of May and June 2014**

9. COMMITTEE/COMMISSION/BOARD REPORTS & MINUTES

*** A. Planning Commission – Minutes of 6/12/14**

*** B. Tourism Advisory Board – Minutes of 4/29/14**

C. Assembly Standing Committee Reports

10. UNFINISHED BUSINESS

A. Ordinance 13-12-358 - Postponed on 1/28/14 and 2/11/14

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.

This was introduced on 12/10/13 and had a first hearing on 1/14/14. On 1/28/14 it had a second hearing, and then a motion was made to adopt it. Following discussion, adoption was postponed to 2/11/14 and on that date during debate, an amendment motion was made. It was then postponed, prior to dispensing with the motions, so the planning commission and assembly member Schnabel could do further work on it.

10A. UNFINISHED BUSINESS/Ordinance 13-12-358 ---continued---

The planning commission considered this matter during its June and July meetings, and are ready to return the ordinance to the assembly. The commission does recommend a substitute ordinance. Debate must resume with the motion to adopt and the motion to amend already on the table.

Motions already on the table:

Main Motion: Adopt Ordinance 13-12-358

Primary Amendment: "Replace the word "structures" with "permanent buildings" and remove the phrase "for all uses" on Page 3, Section C."

Important: the amendment motion on the table must be voted on first. After that, the proposed substitute could be considered.

11. NEW BUSINESS

A. Resolutions for Adoption

* 1. Resolution 14-07-577

A Resolution of the Haines Borough Assembly authorizing the Borough Manager to execute a contract change order with Southeast Road Builders, Inc. for the Highland Estates Water System Upgrade project for an amount not-to-exceed \$89,500 to pave Oslund Drive as approved by the Alaska Department of Environmental Conservation.

*This resolution is recommended by the Director of Public Facilities. **Motion:** Adopt Resolution 14-07-577.*

* 2. Resolution 14-07-578

A Resolution of the Haines Borough Assembly authorizing the Borough Manager to contract with Bicknell, Inc. for an amount not-to-exceed \$50,000 for the removal and disposal of 210 yards of contaminated soil.

*This resolution is recommended by the Director of Public Facilities. **Motion:** Adopt Resolution 14-07-578.*

B. Ordinances for Introduction

* 1. Ordinance 14-07-384

An Ordinance of the Haines Borough placing a proposition on the October 7, 2014 Haines Borough General Election ballot to amend Borough Charter Section 16.04 to remove the requirement for a runoff election if a candidate does not receive at least 40% of votes cast to be elected to borough office.

*This ordinance is in response to one of the assembly's 2014 legislative priorities. **Motion:** Introduce Ordinance 14-07-384 and set a first public hearing for 8/12/14.*

* 2. Ordinance 14-07-385

An Ordinance of the Haines Borough to amend Borough Code Section 11.48.50 to provide that candidates receiving the greatest number of votes cast shall be declared the winners of an election even if the greatest number of votes cast is less than 40% of the total votes cast and to eliminate the requirement for a runoff election.

*It amends the borough code pursuant to voter ratification of the proposition in Ordinance 14-07-384. **Motion:** Introduce Ordinance 14-07-385 and set a first public hearing for 8/12/14.*

* 3. Ordinance 14-07-386

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

*This ordinance is recommended by the borough manager. **Motion:** Introduce Ordinance 14-07-386 and set a first public hearing for 8/12/14.*

4. Ordinance 14-07-387

A non-code Ordinance of the Haines Borough approving the sale to Haines Brewing Company Inc. of Lot [TBD], Primary School Subdivision Plat No. 2014-[TBD], Haines Recording District, First Judicial District, State of Alaska.

*The manager conducted the negotiations for a negotiated land sale, as directed by the assembly on 6/25, and he took the sales proposal to the Planning Commission as required by code. The commission recommends it be considered by the assembly. **Motion:** Introduce Ordinance 14-07-387 and set a first public hearing for 8/12/14.*

11B. NEW BUSINESS/Ordinances for Introduction ---continued---

5. Ordinance 14-07-388

An Ordinance of the Haines Borough authorizing the issuance of General Obligation Bonds in an aggregate amount not to exceed \$4,722,079 to finance up to four projects for 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 7, 2014, of four propositions, one for each of the capital improvement projects authorized by this ordinance; appropriating funds for those projects that are approved by the voters; and providing for an effective date.

*This ordinance was prepared by the borough's bond counsel. He advised a single ordinance could place multiple propositions on the ballot, and this draft includes a ballot question for four different school major maintenance projects. This is a result of applications made to the Alaska Department of Education (DEED) for school project funding reimbursement. The assembly and school board met jointly 3/4/14 and authorized staff to go forward with that application process, and the result is that most of the projects have been approved for 70% reimbursement. The project for pool mechanical, locker room, and ADA compliance upgrades has not as yet qualified. Staff requests an assembly discussion of whether to add a fifth ballot proposition that would authorize a bond for the pool upgrades knowing that project is currently ineligible for the 70% reimbursement. As with any ordinance, the assembly may choose to amend it. **Motion:** Introduce Ordinance 14-07-388 and set a first public hearing for 8/12/14.*

C. Other New Business

1. Resolution 14-07-580

A Resolution of the Haines Borough Assembly opposing the passage of the initiative to legalize recreational marijuana in Alaska and urging voters to defeat ballot measure 2.

*This draft resolution was submitted by Assembly Member Berry. Mayor Scott recommends a public hearing be held before this goes to an assembly vote, and Mr. Berry concurs. **Motion:** Schedule Resolution 14-07-580 for a public hearing to be held on 8/26/14.*

2. Executive Session – UPDATE ON CUP LAWSUIT

Motion: Move into executive session as allowed by AS 44.62.310(c)(1) and Haines Borough Charter Section 18.03 to receive a update on the heliport CUP lawsuit; this matter qualifies for executive session because a public discussion may adversely affect the finances of the borough and/or the borough's legal position; the borough manager is requested to attend.


12. CORRESPONDENCE/REQUESTS

13. SET MEETING DATES

14. PUBLIC COMMENTS

15. ANNOUNCEMENTS/ASSEMBLY COMMENTS

16. ADJOURNMENT



Haines Borough
Borough Assembly Meeting #273
July 8, 2014

MINUTES **Draft**

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 Jerry **LAPP**, Debra **SCHNABEL**, George **CAMPBELL**, Dave **BERRY**, and Diana **LAPHAM**. **Absent:** Joanne **WATERMAN**

Staff Present: David **SOSA**/Borough Manager, Julie **COZZI**/Borough Clerk, Carlos **JIMENEZ**/Director of Public Facilities, Bill **MUSSER**/Chief of Police, Christina **BASKAYA**/Special Projects Officer, Helen **ALTEN**/Museum Director, and Jila **STUART**/Finance Director.

Visitors Present: Karen **GARCIA**/CVN, Margaret **FRIEDENAUER**/KHNS, Ginger **JEWELL**/School District Superintendent, Joe **POOR**, and others.

3. **APPROVAL OF AGENDA & CONSENT AGENDA**

The following Items were on the published consent agenda:

Consent Agenda:

- 4 – Approve Assembly Meeting Minutes
- 7A – Withdrawn Abatement Appeal
- 8B – Library Report
- 9A – Museum Board Minutes
- 9B – Library Board Minutes
- 11A1 – Resolution 14-06-572
- 11A2 – Resolution 14-06-573
- 11A3 – Resolution 14-06-574
- 11A4 – Resolution 14-06-575
- 11A5 – Resolution 14-06-576

Motion: **CAMPBELL** moved to “approve the agenda/consent agenda,” and it was amended to removed item 11A3 from the consent agenda. The motion, as amended, carried unanimously.

4. **APPROVAL OF MINUTES** – 6/24/14 Regular

5. **PUBLIC COMMENTS** - None

6. **MAYOR’S COMMENTS/REPORT**

Mayor **SCOTT** said the Chilkat Indian Village needs more time to discuss the mining forum proposal in order for the full tribal council to be involved. She appreciates those individuals who attended the recent Energy Roundtable, and she is working on a written report. **LAPP** inquired about the purpose for the mayor’s recent letter to Commissioner Kemp about telecommuting. **SCOTT** explained there are some members in the Haines community who work for the state and telecommute. **CAMPBELL** reported the governor has now issued a directive that the state will no longer authorize telecommuting.

7. **PUBLIC HEARINGS**

* **A. Appeal of a Nuisance Abatement Order** – George Edwards

This appeal was been withdrawn by Mr. Edwards. He has agreed to an abatement plan.

8. **STAFF/FACILITY REPORTS**

A. Borough Manager – 7/8/14 Report

SOSA summarized his written report and entertained questions and comments about the following topics: possible refinancing of the 2005 school construction bond; borough land acquisition; a project to inventory the borough roads, specifically type and condition, prioritization, and available funding (this will enable staff to develop a plan); policy pertaining to the random GPS spot checks; and negotiation of a land sale to Haines Brewing Company.

* **B. Public Library** – May 2014 Report

9. **COMMITTEE/COMMISSION/BOARD REPORTS & MINUTES**

* **A. Museum Board of Trustees** – Minutes of 5/29/14

* **B. Library Board of Trustees** – Minutes of 4/16/14 and 5/21/14

C. Assembly Standing Committee Reports

SCHNABEL reported the Commerce Committee met to discuss the proposed amendments to the signage ordinance to allow for off-premise signs. It remains in committee; they are working on a redraft to bring to the assembly. The manager noted he has stayed enforcement of the current code pertaining to off-premises signs until this ordinance is dealt with.

10. UNFINISHED BUSINESS - None

11. NEW BUSINESS

A. Resolutions

***1. Resolution 14-07-572**

A Resolution of the Haines Borough Assembly authorizing the Borough Attorney to File Suit to Collect Past Due Sales Tax from Bruce Bauer d/b/a Funny Farm.

The motion adopted by approval of the consent agenda: "adopt Resolution 14-07-572."

***2. Resolution 14-07-573**

A Resolution of the Haines Borough Assembly authorizing the Borough Attorney to File Suit to Collect Past Due Sales Tax from Haines Sanitation, Inc.

The motion adopted by approval of the consent agenda: "adopt Resolution 14-07-573."

3. Resolution 14-07-574

A Resolution of the Haines Borough Assembly authorizing the Borough Attorney to File Suit to Collect Past Due Sales Tax from Hog Heaven Caffeine & Grub LLC.

CAMPBELL disclosed a potential conflict of interest; he believes he has competing interests because this business also owes him money. He is uncomfortable with voting on this.

Motion: **BERRY** moved to "recuse Campbell from this matter as having a conflict of interest," and the motion failed 3-1 with **SCHNABEL** opposed.

There were no public comments about this resolution.

The mayor noted a citizen claimed **SCHNABEL** and **BERRY** each have a conflict of interest, as well. She does not believe that to be the case, and the assembly agreed.

Motion: **CAMPBELL** moved to "adopt Resolution 14-07-574," and the motion carried unanimously in a roll call vote.

***4. Resolution 14-07-575**

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 2016.

The motion adopted by approval of the consent agenda: "adopt Resolution 14-07-575."

***5. Resolution 14-07-576**

A Resolution of the Haines Borough Assembly authorizing the Borough Manager to contract with Leading Edge Equipment Partners, LLC in the amount of \$42,000 for the purchase of a forklift.

The motion adopted by approval of the consent agenda: "adopt Resolution 14-07-576."

B. Ordinances for Introduction - None

C. Other New Business

1. Board Appointment

An appointment application was received for a seat on the Historic Dalton Trail RMSA Board. The mayor sought assembly confirmation.

Motion: **CAMPBELL** moved to "confirm the mayor's appointment of Mary Cummins to the "Sub-zone 2" seat on the Historic Dalton Trail RMSA Board for a term ending 11/30/16," and the motion carried unanimously.

12. CORRESPONDENCE/REQUESTS - None

13. SET MEETING DATES

A. Strategic Planning Sessions (C.O.W.) – First session: 6:30 p.m., Wednesday, 8/20. Second session: Wednesday, 9/3. **SOSA** recommends no fewer than two sessions but three would be ideal. He advised the sessions should be structured so there are both inputs and outputs. Strategic Planning takes a lot of work, and he suggests a five-year strategic plan. Those who have decided to run for borough assembly should be invited to attend. A facilitator is not necessary. He is directing staff to prepare updates and information to assist the assembly in the strategic planning, and staff will need time between sessions to prepare information.

14. PUBLIC COMMENTS - None

15. ANNOUNCEMENTS/ASSEMBLY COMMENTS

LAPHAM said she has received great comments about the officials who walked in the 4th of July parade.

SCHNABEL proposed the following ideas: 1) having a policy that where there is employee misconduct the borough could refrain from negotiating an agreement that prevents disclosure of personnel information, and 2) creating a "land bank" within the borough's Permanent Fund allowing the borough to purchase properties to use for incentive programs and enabling the borough to attract new businesses into the community. Mayor **SCOTT** suggested the ideas could be written up and presented for consideration at a future assembly meeting.

Mayor **SCOTT** said an idea for a block party to celebrate the paving of Third Avenue has been proposed.

LAPP said he heard a lot of good comments about the manager's town hall. He is concerned about the condition of many of the dirt roads in the townsite and would like to see grading move a little quicker this summer. **JIMENEZ** explained there are staffing shortages that are being addressed; he agrees work is needed.

CAMPBELL said he has been hearing good things about the new manager, including the town hall. Additionally, he welcomed the new school superintendent to the community.

16. ADJOURNMENT – 7:24 p.m.

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

ATTEST:

Stephanie Scott, Mayor

Julie Cozzi, MMC, Borough Clerk



Agenda Bill No.: 14-486

Assembly Meeting Date: 7/29/14

Business Item Description:		Attachments:
Subject: New Commercial Tour - AMG		1. New AMG Tour Activity Description and Map 2. Recommendations from Harbormaster, Police Chief, and Tourism Director 3. Public Hearing Notice
Originator: Borough Clerk		
Originating Department: Administration		
Date Submitted: 6/24/2014		

Full Title/Motion:
 Motion: Authorize the borough clerk to process the Alaska Mountain Guides application to add a guided canoeing tour to the company's list of permitted commercial tour activities.

Administrative Recommendation:

Fiscal Impact:		
Expenditure Required	Amount Budgeted	Appropriation Required
\$ N/A	\$	\$

Comprehensive Plan Consistency Review:	
Comp Plan Policy Nos.: 5.8.5 - Tourism, pages 90-95	Consistent: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Summary Statement:
 Alaska Mountain Guides has applied to add a new tour to their permitted 2014 commercial tour activities. They propose to provide guided canoeing on Chilkoot Lake. AMG is already permitted to operate tours in the Chilkoot River Corridor. The tourism director, police chief, and harbormaster have reviewed the proposed activities and have no objection. HBC Title 5 requires a public hearing before the assembly for all new tour activities.
 Title 5 of the Haines Borough code requires a public hearing before the assembly for all new tour activities. More information is attached to this agenda bill.

Referral:			
Sent to:		Date:	
Recommendation:	Refer to:	Meeting Date:	

Assembly Action:	
Workshop Date(s):	Public Hearing Date(s): 7/29/14
Meeting Date(s): 7/29/14	Tabled to Date:

Canoeing at Chilkoot Lake

Contact information for all company principals – Alaska Mountain Guides Adventures, Inc.

Sean Gaffney: 907-314-0883 – PO Box 1081, Haines, AK 99827-1081

Eli Fierer: 801-232-9735 – PO Box 1461, Haines, AK 99827-1461

Contact information for Haines managers

Jake Eckhardt: 907-766 3366– PO Box 1081, Haines, AK 99827-1592

Travis Tucker: 801-243-0101– PO Box 1081, Haines, AK 99827-1626

Locations where tours will be offered for sale

1. Alaska Mountain Guides office in Haines
2. Alaska Mountain Guides office in Skagway
3. Onboard cruise ships
4. www.alaskamountainguides.com
5. www.iwls.com

Hours of Operation/Sale

- **Haines/Skagway Office:** Sunday – Saturday: 8:00 AM – 5:00 PM (typically until 7:00 PM)
- **Onboard Shore Excursion Desk:** desk hours vary from ship to ship.

Hours of Tour Operations

Our tour operations run on demand throughout the day Sunday through Saturday.

7:00 AM – 7:00 PM (Bar far the most amount of our activity is 8:00 AM – 6:00 PM).

Explanation of tour

Guided Canoeing on Chilkoot Lake. Canoes would use a combination of human power paddling and small outboard motor.

Tour Description

After a short tour of Fort Seward, a 30 minute drive from downtown Haines, leads us up the Lutak Inlet to the Chilkoot River Valley. The Chilkoot corridor offers incredible wildlife viewing. Brown Bears, eagles, mountain goats, and spawning salmon are commons sights.

Once at the Lake, we'll head out onto the lake in stable Voyager Canoes. Our Canoes are built using similar dimensions as the canoes used by trappers and gold miners at the turn of the century. Powered by either paddle or motor, this tour offers guests the opportunity to paddle in the serenity of Chilkoot Lake, while also having the advantage of relaxing and taking photographs when it's time to take a break from paddling. We'll be out on the water for about 2 hours and explore the inlets, coves, salmon

spawning streams and numerous waterfalls that spill off of the mountains into the lake. A picnic-style lunch is served at a private ocean beach location at the end of the trip.

Safety Plan

Guides will carry a satellite phone, first aid kit, and radio with each tour.

All guides are training in First Aid and CPR.

Maximum Group Size – 24

of guests per canoe – 12

Max # of tours per day – 4

Tour Length – 4 hours

Locations/Stops

Picture Point, Nukdik point, private beach access on Beach Road, Chilkoot River Road, Chilkoot Lake, Fort Seward



Image © 2014 DigitalGlobe
Image Landsat

Google earth

Imagery Date: 4/9/2013 59°16'57.75" N 135°30'04.76" W elev 1504 ft eye alt 19.27 mi



HAINES BOROUGH, ALASKA
P.O. BOX 1209, HAINES, ALASKA 99827
Administration 907.766.2231 ♦ (fax) 907.766.2716
Tourism 907.766.2234 ♦ (fax) 907.766.3155
Police Dept. 907.766.2121 ♦ (fax) 907.766.2190
Fire Dept. 907.766.2115 ♦ (fax) 907.766.3373

Date: July 7, 2014

TO: Julie Cozzi, Haines Borough Clerk
Members of the Haines Borough Assembly

FROM: Wm (Bill) Musser, Chief of Police

RE: Alaska Mountain Guides Adventures, Inc. – Application for Canoeing Tour Permit

I have reviewed the application made by Alaska Mountain Guides Adventures, Inc. for their canoeing tour permit. I am not aware of any issues with the company's current or past operations in the Haines Borough. I do not have any issues with the company's proposal, and I would recommend their application be given due consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Wm. Musser", with a long horizontal flourish extending to the right.

Wm. (Bill) Musser
Chief of Police

From: [Leslie Ross](#)
To: [Julie Cozzi](#); [Bill Musser](#); [Phil Benner](#)
Cc: [Krista Kielsmeier](#)
Subject: RE: Canoeing at Chilkoot Lake - Haines Borough Tour Permit application
Date: Thursday, July 10, 2014 5:39:16 PM

I am in full support of the proposed tour permit from Alaska Mountain Guides Canoe trip at Chilkoot Lake.

Thank you,

Leslie Ross

Director of Tourism
Haines Borough
PO Box 530
Haines, AK 99827
907-766-2234
www.haines.ak.us
lross@haines.ak.us



From: Julie Cozzi
Sent: Monday, July 07, 2014 1:32 PM
To: Bill Musser; Leslie Ross; Phil Benner
Cc: Krista Kielsmeier
Subject: FW: Canoeing at Chilkoot Lake - Haines Borough Tour Permit application

Hi...

The borough has received the attached application for a new tour. AMG already has a 2014 tour permit but they wish to add this new tour activity. All new tours must be approved by the borough assembly. Per HBC 5.18.040 (C), the police chief, tourism director, and harbormaster shall review any application for a tour and, for all tours subject to a hearing, submit a recommendation to the assembly for consideration prior to the scheduled hearing.

The hearing is currently scheduled for the 7/22 assembly meeting, so I need your written recommendation no later than Wednesday, 7/16, 10am. Email is fine. Please let me know if you

Julie Cozzi

From: Phil Benner
Sent: Monday, July 07, 2014 2:00 PM
To: Julie Cozzi; Bill Musser; Leslie Ross
Cc: Krista Kielsmeier
Subject: RE: Canoeing at Chilkoot Lake - Haines Borough Tour Permit application

I have no problem with this Tour Permit.

Phil Benner
Haines Harbormaster

From: Julie Cozzi
Sent: Monday, July 07, 2014 1:32 PM
To: Bill Musser; Leslie Ross; Phil Benner
Cc: Krista Kielsmeier
Subject: FW: Canoeing at Chilkoot Lake - Haines Borough Tour Permit application

Hi...

The borough has received the attached application for a new tour. AMG already has a 2014 tour permit but they wish to add this new tour activity. All new tours must be approved by the borough assembly. Per HBC 5.18.040 (C), the police chief, tourism director, and harbormaster shall review any application for a tour and, for all tours subject to a hearing, submit a recommendation to the assembly for consideration prior to the scheduled hearing.

The hearing is currently scheduled for the 7/22 assembly meeting, so I need your written recommendation no later than Wednesday, 7/16, 10am. Email is fine. Please let me know if you have questions. Thank you!

Julie

From: Alaska Mountain Guides - Exec [<mailto:exec@alaskamountainguides.com>]
Sent: Friday, June 20, 2014 7:37 AM
To: Julie Cozzi; Alaska Mountain Guides - Manager
Cc: Alaska Mountain Guides - Exec
Subject: Canoeing at Chilkoot Lake - Haines Borough Tour Permit application

Hi Julie,

I've attached an application for a new tour permit.

You should already have Proof of Worker's compensation insurance, AK State Business License, and Operators Code of Conduct for Alaska Mountain Guides on file.

Please let me know if you would like additional copies accompanying this permit application.

I will be sending another separate email with an application for a different tour following this email. We will bring by a check for the \$25 application fee.

I would like to keep both of these tour permit applications separate.

Thanks. If there is anything else that you need at this time, please let me know.

Best regards,

Eli

HAINES BOROUGH
HAINES, ALASKA
PUBLIC NOTICE

AT **6:30 p.m., July 22, 2014**, IN THE ASSEMBLY CHAMBERS OF THE PUBLIC SAFETY BUILDING, A PUBLIC HEARING WILL BE HELD ON THE FOLLOWING:

APPLICATION FOR A NEW COMMERCIAL TOUR

Alaska Mountain Guides

Sean Gaffney and Eli Fierer, of Alaska Mountain Guides Adventures, Inc., have applied for a new expansion of tour operations to include guided canoeing on Chilkoot Lake. The company is already permitted for other 2014 tour activities in the Chilkoot River Corridor.

Title 5 of the Haines Borough code requires a public hearing before the assembly for all new tour activities. More information is attached to this notice (descriptions & maps) and is also available in the borough clerk's office and on the website: <http://www.hainesalaska.gov/boroughassembly> (click on "Borough Assembly Meeting" under "Upcoming Events").



Comments may be made at the public hearings or sent to P.O. Box 1209, Haines, AK 99827 or jcozzi@haines.ak.us or kkielsmeier@haines.ak.us.

Posted 7/14/14
Julie Cozzi, MMC, Borough Clerk



MANAGER'S REPORT

DATE: July 29, 2014
 TO: Mayor and Borough Assembly
 FROM: David B. Sosa, Borough Manager

BOROUGH ADMINISTRATION MISSION

Under the guidance and direction of the Borough Assembly, the mission of the Haines Borough Administration is to deliver critical and desired services; to protect the safety and well-being of the community; and to create conditions for a vibrant, sustainable economy that enhances and safeguards quality of life

Managers Comments: There are several addendum documents to this report that provide clarification on items of interest.

General Obligation Bonds to Finance a Plan for Capital Improvements to School Facilities of the Borough: Provides a background and overview of this issue to aid the Assembly's discussion and decision making for this agenda item.

Negotiated Land Sale for 20,000 s.f. of Lot #8 Downtown Haines to Haines Brewing Company, Inc.: Provides a background and overview of this issue to aid the Assembly's discussion and decision making for this agenda item.

Where Do your Tax Dollars Go? A handout produced by the CFO as an initial document to in a long term project educate the public on Borough revenue and expenditures.

On 8 July the Assembly voted to conduct Strategic Planning Sessions on 20 August and 3 September. In preparation for those sessions the Manager gave direction to Borough Staff to develop briefing products to aid the Assembly discussion. Staff sections were also directed to set time with relevant Committees, Boards, and Commissions to review products in advance of the initial session on 20 August in order to ensure that all stakeholders are prepared to participate. The manager will hold a second review session with staff on 31 July to review initial products and provide additional guidance.

As additional preparation for the Strategic Planning Sessions staff will review the following International City/Count Management Association (ICMA) University Web-conference Presentations:

-Charting the Course and Staying on It: Strategic Planning, Managing Workflow and Budgeting

-A Higher Standard: Performance, Accountability, and Customer Service

-Priority Based Budgeting: How to Engage Citizens and Elected Officials

Dates and times will be posted for each web-conference and Assembly Members, Board, & Committee Members are welcome to attend.

In addition to the web-conferences, the following document links were provided to the Staff as required reading in preparation for the Strategic Planning session. Assembly Members and Board/Committee/Commission Members are encouraged to read these documents.

Municipal Development Strategy Process: A Toolkit for Practitioners: http://www.vng-international.nl/fileadmin/user_upload/downloads/publicationsAndTools/Toolkit_Municipal_Development_Strategy_Process_ENG.pdf

The Role of Local Government in Local Economic Development: http://www.vng-international.nl/fileadmin/user_upload/downloads/publicationsAndTools/Toolkit_Municipal_Development_Strategy_Process_ENG.pdf

Public Outreach: As part of the Borough's continued emphasis on public outreach The Haines Borough will have a booth at the Fair. Representatives from Staff and Assembly along with the Mayor and Manager will be stationed at the booth at various times throughout the 4 days to provide information, answer questions, and engage with residents and visitors. The Staff is also planning on holding additional Town Hall Meetings. In August the Police Chief and Fire Chief will conduct a Public Safety Town Hall (date/time TBD) and in September the Harbormaster will conduct a Ports & Harbor Town Hall (Date/Time TBD). Throughout the fall Finance & Public Works will have dedicated opportunities to engage with the public.

SE Alaska Transportation Plan (DRAFT): The State Department of Transportation and Public Facilities has released a DRAFT Transportation Plan and public meetings will be held around the Southeast in the near future. The plan can be found online at: <http://dot.alaska.gov/sereg/projects/satp>

Clerk

Focused preparation on election items.

Community & Economic Development

ComEcDev: The application deadline passed and I am currently reviewing the submitted applications. I will form a hiring committee consisting of myself, the CFO, an Assembly rep (commerce committee member preferred), and a local business representative. The goal will be to review resumes next week, select individuals for interviews, and agree to interview questions and an evaluation process. I would like to have hiring complete by Mid August with a start date no later than 1 September.

Picture Point: Artisan Surveying Group has completed the topography survey and information has been given to PND for a construction design.

Pellet Boiler at the Senior Center: LevAlert devises have been identified and in process of being ordered. This device will aid in determining the level of pellets in the silo without having to climb ladder and measure.

Heliski Random Spot Checks: The Community & Economic Director should only request random checks from Takshanuk Watershed Council on days when at least one company has operated. To do this, Director should receive schedule of operated days from companies on a weekly, biweekly or monthly basis. From this information, Director should record only the days when at least one company operated and then systematically choose a random day for spot checks from that pool.

Downtown Revitalization Committee: The committee was scheduled to meet on Monday, June 14th. Only three members were present and thus, there was not a quorum. The meeting became a workshop to discuss the mission and vision of the committee. It was suggested that the committee use what is stated in the Downtown Revitalization Plan and the Haines Comprehensive Plan as the statement of their vision.

Southeast Alaska State Fair: The Haines Borough will have a booth at the Fair. Representatives from Staff and Assembly along with the Mayor and Manager will be stationed at the booth at various times throughout 4 days. A schedule will be posted at the booth for Fair-goers to be able to see what time a member of the Assembly or Staff will be available to discuss services and answer questions. If any member has not yet signed up for a time, please contact Christina Baskaya, 766-2231 x60 or cbaskaya@haines.ak.us.

Facilities:

Borough Radio Communication System and E-911

The engineer inspected the new E-911 system and created a punch list of items for the contractor to address before final payment is made. The contractor will submit a schedule for when these items will be addressed.

High School Air Handling Units

Demolition of the existing AHUs took place the week of July 7-12. Installation of new units is underway.

Third Avenue Reconstruction

Culvert and catch basin work has been complete. The first curb was poured on the east side of Third Ave. on July 11. Curb and sidewalk work will continue for the remainder of July.

Picture Point

Topographical surveying was completed and submitted to the Borough on July 14. A design proposal from PND is currently under review.

Library Building Controls Conversion

The contractor, Meridian Systems, has made two site visits to Haines and will be back this month to begin work.

Chilkat Center for the Arts Window Replacement

A request for proposals will be issued to replace the windows in the second story of the CCA dance studio as well as the radio station. These windows are in poor condition operational condition and are not energy efficient.

Borough Administration Building

A request for proposals will be issued to replace the windows in the finance department. These windows are a deferred maintenance project.

Borough Administration Building Roof

The Borough will be soliciting sealed bids for the re-roofing of the administration building. This project will include framing a pitched roof over the portion of the facility that currently has a flat roof. The existing roofing material are cedar shingles. The new roof will be asphalt shingles.

Cathedral View Subdivision

Public Works is surfacing the Cathedral View Subdivision with 4" of D-1. This project was planned for in the FY15 CIP budget.

Administration Building Boiler

Maintenance is preparing to install a new boiler in the Administration Building to replace the existing unit. The existing unit is approximately 25 years old and in poor condition.

Finance:

Primarily due to a sharp increase in the number of qualifying senior exemption applications, and to a much lesser extent to the real property value appeals process, property tax revenues for FY15 will be lower than projected in the FY15 budget. The chart below shows current projections of property tax revenue \$52,000 under budget. Roughly \$45,000 of this is due to senior exemptions in greater numbers. The remainder is due to appealed values being slightly lower than anticipated. Most of the reduced revenues can be covered by available fund balance but a budget amendment is needed. Another note, the projections below assume the current tax roll which includes the second floor of the veteran building as a percent complete (not wholly exempt).

There are still 7 senior applications which are awaiting approval. If those are all approved, tax revenue loss from this exemption will be up nearly 24% from two years ago and 16% from last year. The total cost of the exemption to the Borough in FY15 will be roughly \$310,000. This is up approximately \$40,000 from last year. Real taxable values (before the senior veteran exemption was applied) decreased \$2,575,230 (about 0.8%) during the appeal process. Assuming senior exemptions continue to increase or hold steady, we will need to address this issue in the next budget cycle with an slightly increased mill rate, decreased expenditures, or supplemental revenue sources. Here is a breakdown of how the current projected revenues compare to the FY15 budget:

	Tax Area	FY15 Budget	Per 7-14 Tax Bills	est. If addn'l Sr/Vet Approved	Projected Under Budget
01-01-09-4011	Areawide General Fund	\$ 1,645,000	\$ 1,618,327	\$ 1,612,501	\$ (32,499)

01-09-49-4025	Letnikof RMSA	10,000	9,762	9,727	(273)
01-09-52-4031	Riverview RMSA	3,000	2,987	2,976	(24)
01-09-54-4025	Historic Dalton Trail RMSA	9,500	9,612	9,577	77
01-09-55-4025	Eagle Vista Sub-RMSA	6,000	6,022	6,000	-
01-09-56-4025	Chilkat Lake Sub-RMSA	2,000	2,000	1,993	(7)
02-01-09-4011	Townsite Service Area	414,000	408,113	406,644	(7,356)
25-01-00-4021	Fire District #1	203,000	199,679	198,960	(4,040)
25-02-00-4021	Fire District #2	28,418	28,160	28,059	(359)
7X-01-00-4021	Debt Service Funds	402,500	395,850	394,425	(8,075)
		\$ 2,723,418	\$ 2,680,512	\$ 2,670,862	\$ (52,556)

Fire & Emergency Services: NSTR

IT: NSTR

Land Assessment-Planning & Zoning:

Land Sales: Proposed Negotiated Sale to Haines Brewery Inc (See attached memo)

Planning:

Primary School Subdivision Re-plat: Under the leadership of the Borough Planner the working group met this past week to address this topic. Some of the items addressed included:

- Vacating a portion of the right-of-way on Fifth Ave to prevent traffic flow directly from Main St to the school parking lot for public safety concerns, and to increase the acreage of lot 5 for snow storage;
- Shift western property line of lot 2 approximate 50 feet to the west, and eliminate the common lot line between lot 1 and lot 2 (combine the admin building and parking lot)
- Shift western property line of lot 3 approximate 50 feet to the west and make lot 3 into a rectangular-shaped lot (the library will have more space for future expansion, and rectangular lots with good frontage on the road and good depth behind the house are always highly encouraged for development);
- Connect admin parking lot and library parking lot, make it a loop. In order to make lots 1 & 2 have legal access to library's parking lot (lot 3), an access easement needed to be granted stating that the lots 1 & 2 & 3 share common access and parking lot (the working group also discussed the possibility of combining lots 1, 2 and 3, but the Borough requires that "lot depth should not exceed two and one-half times the width");
- Review of a proposal by The Public Works for a 20 feet wide water/sewer utility easement that goes along southern property line of remaining lot 8.
- Follow-on actions: Continue work with designated individuals to review the potential for development of a safe walking route to the school site. Additionally, the working group also would like the planning commission to determine the designated use of lot 4 in the future possibly for recreational activities.

Legal: There will be an item for executive session this assembly meeting

Library: NSTR

Police:

Personnel: Officer Ford provided notice several weeks ago of his intent to resign and accept a position with the Palmer Police Department. His service to the Borough has been greatly appreciated and we wish him well in this new endeavor. We are in the process of hiring for replacement for Sgt Ford and have 4 applications at this time. Personal leave request by Dispatch Supervisor Grimes, discussed with Manager Sosa and requesting an emergency hiring for temp dispatcher S. Turner, as well as approval for a 90- day temporary hire to help coverage during the LOA due to another dispatcher out on FMLA until November.

Logistics: Completed vehicle upgrades for emergency lighting equipment and protective screen. Continuing with jail plumbing upgrade finally received updated quotes back.

SE Alaska State Fair – All officers will be working and scheduling is sufficient despite recent loss of 1 officer. Resident AST available, but no additional LE will be coming in from other jurisdictions.

Ports & Harbors:

Fuel & Ice: The staff provided over 5,000 gallons of fuel to boating community in Haines a week, along with 15 tons of ice. They continue to work on the ice delivery floats and system to streamline delivery.

Net Floats: Both net floats are operational.

Inspections: The U.S Coast Guard Security Spot Inspection was conducted this week with zero discrepancies.

South Portage harbor: Received confirmation from the US Army Corps of Engineers that work associated with the geotechnical and environmental investigation at South Portage Harbor is authorized under Nationwide Permit 6. Additionally, the Alaska Department of Fish and Game and the Alaska Department of Natural Resources, Division of Mining Land and Water have confirmed that no additional authorizations are required from their agencies to conduct the investigation. On 23 July the Manager, Harbormaster, and Facilities Director were on a phone conference with PND Engineers to review specifics of the project. The following public message will be posted when specific dates and times are identified for this project:

PND and Haines Borough have received confirmation from the US Army Corps of Engineers that work associated with the geotechnical and environmental investigation at South Portage Cove Harbor is authorized under Nationwide Permit 6. Additionally, the Alaska Department of Fish and Game and the Alaska Department of Natural Resources, Division of Mining Land and Water have confirmed that no additional authorizations are required from their agencies to conduct the investigation.

The drilling and sampling will last approximately one month at different locations throughout the proposed harbor and existing harbor. We anticipate the drilling to start about 15 August and last until mid-September. At the end of August and beginning of September it will require that all vessels on A float and B transient float be moved to facilitate the drilling barge.

There may be a slight inconvenience for up to 72 hours for some vessels but it will minimize the costs of the project. The last time we had the drilling barge weather caused over \$100,000 in delays. The cooperation of all involved will keep the costs down and allow the project to move smoothly. We will give as much advance notice as possible to minimize inconvenience.

Sheldon Museum & Cultural Center : NSTR

Tourism:

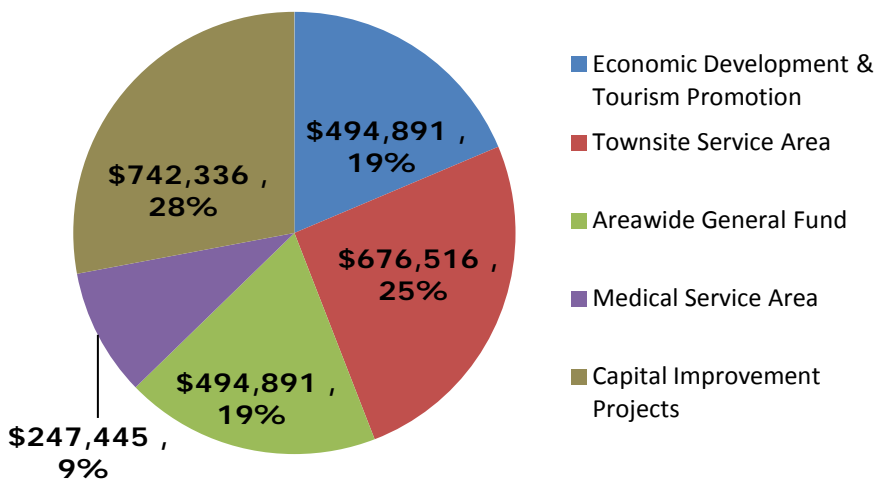
Update: The PC Visitor Kiosk is successful and well used on Wednesdays and the Winter Tourism & Economic Development Study is beginning to be finished by October. A final coordination meeting was held to address support for the SEAK Fair and initial reports are that accommodations for Fair weekend in town are almost completely full. Over the past week a Travel Writer from Australian Fairfax Media was in town and he will be profiling Haines for an upcoming publication. A travel writer from Trekaroo –family travel planning-visits next week.



WHERE DO YOUR SALES TAX DOLLARS GO?

Haines Borough sales tax rate is set by the people of Haines. No sales tax can be created without being ratified by the voters. The sales tax is levied on all retail sales made, on all amounts paid as rent, and on all services performed within the borough in the regular course of business. The current rate is 5.5% inside the Townsite and 4% outside the Townsite. Additionally, there is a 4% lodging tax on all stays less than 30 days. Most of the sales tax collected is dedicated for specific use as follows:

How does the FY13 5.5% sales tax break down?



Economic Development & Tourism Promotion– These funds primarily support the roughly \$350,000 Tourism Promotion Budget. Additionally, in FY15 this tax will fund the new Community & Economic Development Director position.

Townsite Service Area – These funds go towards paying for police, public works, and animal control in the Townsite.

Areawide General Fund – These funds support many Borough functions & facilities including: the school, library, museum, pool, Chilkat Center, parks, and Borough administrative functions.

Medical Service Area – These funds primarily support the Borough’s ambulance service as well as a share of the cost of dispatch for ambulance. A portion of the funds go towards mental health.

Capital Improvement Projects These funds support capital projects for Borough roads and facilities.

What makes up the 5.5% Tax?

	Tax Levy
Economic Development	1.0%
Townsite Service Area	1.5%
Areawide General Fund	1.0%
Medical Service Area	0.5%
Capital Improvement Projects	1.5%
	<hr/> 5.5%

How much does the 4% lodging tax bring in?

In FY13 the 4% lodging tax brought in \$88,083 in FY15 it is projected to be \$90,000. The lodging tax revenues are deposited into the Areawide General Fund.



July 24, 2014

From: Borough Manager
To: Borough Assembly

SUBJ: Negotiated Land Sale for 20,000 s.f. of Lot #8 Downtown Haines to Haines Brewing Company, Inc.

Assembly Members,

At the direction of the Borough Assembly, and pursuant to HBC 14.20.100, the Borough Manager entered negotiations with Mr. Paul Wheeler and Ms. Jennie Kitayama, owners of Haines Brewing Company, Inc, for the purchase of 20,000 s.f. of Lot#8 in Downtown Haines. The lot is zoned commercial and the property will be developed as a Combination Residential/Industrial/Commercial (RIC) which is a use by right (UBR) as listed in HBC 18.70.040 (Zoning Use Chart) for Commercial Areas.

On 3 July, 2014 the Manager and the owners of Haines Brewing Company, Inc. reached an agreement of a price of **\$4.33 per square foot**. Mr. Dean Olsen, the Haines Borough Assessor, had conducted an initial assessment of the property and determined that fair market value for the designated parcel was \$4.33 per square foot with a price range from \$3.75 per square foot to \$4.75 per square foot.

The Owners of Haines Brewing Company, Inc. also requested economic incentives citing Objective 3E of the Haines Comprehensive Plan (Continue to implement the 2011 Downtown Haines Revitalization Plan) which includes recommendations to provide for economic incentives and specifically mentions temporary reduction in property taxes. In keeping with this, and after additional negotiation, the Manager offered **a 50% property tax reduction in the first year after purchase, a 30% reduction in property taxes in the second year after purchase, and a 25% property tax reduction in the third year after purchase**. No other economic incentives were agreed to.

The Manager also notes that recommendation and ultimate approval of this negotiated sale will provide property tax on a parcel currently not producing any revenue, will likely increase sales tax revenue from the Downtown Area, and is in keeping with two other provision of the Haines Comprehensive Plan, specifically Objectives 3D and 3E item #12.

SUBJ: Negotiated Land Sale for 20,000 s.f. of Lot #8 Downtown Haines to Haines Brewing Company, Inc.

Additional discussions addressed the following:

- Requirement for the Borough to view the site plans before final sale
- Ensuring conformity with downtown aesthetic
- Ensuring that plan address off street parking
- Ensuring that plans address access
- Ensuring that plans mitigate traffic
- Ensuring that plans address the potential for expansion
- And ensuring that plans are in conformity to the amended Plat that is currently being developed under the direction of Ms. Xi ("Tracy") Cui the Borough Planner.

The Borough Manager had conversations with several assembly members who expressed concerns about the appropriateness and ability of the Assembly to authorize property tax reductions as an economic incentive without a referendum. There were also concerns expressed regarding consistency of incentives. In an e-mail dated 9 July 2014, and sent at 1:27 PM on that date to Assembly Members, the Borough Manager referenced Haines Borough Code and Alaska Statute to demonstrate that the Borough Assembly does have the authority to offer a property tax reduction as an economic incentive. AS 29.45.050 notes:

AS 29.45.050. Optional Exemptions and Exclusions.
(<http://www.touchngo.com/lglcctr/akstats/Statutes/Title29/Chapter45/Section050.htm>)

*(m) A municipality may by ordinance partially or totally exempt all or some types of economic development property from taxation for up to five years. The municipality may provide for renewal of the exemption under conditions established in the ordinance. However, under a renewal, a municipality that is a school district may only exempt all or a portion of the amount of taxes that exceeds the amount levied on other property for the school district. A municipality may by ordinance permit deferral of payment of taxes on all or some types of economic development property for up to five years. The municipality may provide for renewal of the deferral under conditions established in the ordinance. **A municipality may adopt an ordinance under this subsection only if, before it is adopted, copies of the proposed ordinance made available at a public hearing on it contain written notice that the ordinance, if adopted, may be repealed by the voters through referendum.** An ordinance adopted under this subsection must include specific eligibility requirements and require a written application for each exemption or deferral. In this subsection "economic development property" means real or personal property, including developed property conveyed under 43 U.S.C. 1601 et seq. (Alaska Native Claims Settlement Act), that*

- (1) has not previously been taxed as real or personal property by the municipality;*
- (2) is used in a trade or business in a way that*
 - (A) creates employment in the municipality;*
 - (B) generates sales outside of the municipality of goods or services produced in the municipality; or*
 - (C) materially reduces the importation of goods or services from outside the municipality; and*
- (3) has not been used in the same trade or business in another municipality for at least six months before the application for deferral or exemption is filed; this paragraph does not apply if the property was used in the same trade or business in an area that has been annexed to the municipality within six months before the application for deferral or exemption is filed; this paragraph does not apply to inventories.*

SUBJ: Negotiated Land Sale for 20,000 s.f. of Lot #8 Downtown Haines to Haines Brewing Company, Inc.

The second concern, regarding the consistency of incentives, has merit. The Borough recently sold property as a negotiated sale in the same area to another entity for which there were no additional economic incentives. If the goal is to spur growth and development within the Downtown area it would be worth considering an ordinance proposing a broader based incentive package. With this in mind the Manager provides the following options and recommendations to the Assembly:

Option 1 (Recommended): Approve the sale as negotiated and consider a broader based incentive package as a separate ordinance.

Advantages:

- Moves the sale forward and allows construction to take place on schedule
- Demonstrates commitment to immediate goal of encouraging business and establishes a template for a dedicated ordinance for economic incentives in the Downtown area.

Disadvantages:

- Limits time to consider the specific incentives offered
- Could result in two different incentive packages

Option 2: Amend offer to separate the price from the economic incentive package and develop a broader based incentive package that businesses can apply for.

Advantages:

- Ensures consistency in economic incentive packages
- Demonstrates commitment to immediate goal of encouraging business through targeted incentives

Disadvantages:

- Could delay construction

Option 3: Direct the Manager to renegotiate the terms in full without economic incentives

Advantages:

- Ensures Borough obtains full property tax value on all property
- Establishes a consistent approach to land sales

Disadvantages:

- Will delay construction
- Disregards specific objectives from the Comprehensive Plan

The Manager acknowledges that there are conceivably many other options and variations on options. Those offered above represent templates from which to choose or adjust. Any questions with regard to this matter can be addressed to David B. Sosa, Borough Manager, Haines, Alaska at dsosa@haines.ak.us or at 907-766-2231 ext. 29.

Respectfully Submitted,

David B. Sosa



July 24, 2014

From: Borough Manager
To: Borough Assembly

SUBJ: General Obligation Bonds to Finance a Plan for Capital Improvements to School Facilities of the Borough

Assembly Members,

On this month's agenda there is an ordinance related to financing a plan for capital improvements to school facilities. This letter provides background and history of the issues leading to the ordinance and identifies some impacts to potential reimbursement of costs as a result of information received from Department of Education and Early Development over the past several weeks.

Background: On 4 March 2014 a Joint Assembly-School Board meeting was held during which the Assembly and School District Voted on the Major Maintenance Projects Status and Action Plan. Two motions were introduced and adopted:

Motion #1: Adopt a resolution to request the legislature to fund the Department of Education and Early Development (DEED) Capital Improvement Projects (CIP) funding through the Department of Education.

Motion #2: Authorize the staff to proceed with the application process to place bond measures on the 2014 ballot.

List of Projects: The following CIP items were identified for action:

- High School Air Handling Unit (Project 1)*
- Vocational Education Mechanical Upgrades (Project 2)*
- **High School Locker Room (Project 3)***
 - The high school locker room is located below the pool locker room. Leakage from the pool locker room and mechanical systems has damaged the High School locker room.
- **Pool Locker Room (Project 6)**
 - The pool locker room project includes upgrades to the locker rooms, mechanical upgrades to the pool, and ADA compliance upgrades primarily focused on the pool building. This project is about much more than the locker room and is actually very focused on essential mechanical upgrades

Bundled
Projects

SUBJ: General Obligation Bonds to Finance a Plan for Capital Improvements to School Facilities of the Borough

and ADA compliance. It would be helpful to change the name to something that more accurately reflects the goals of the project such as: ***“Haines Pool Mechanical Systems Upgrade and ADA Compliance Project”***

- Mosquito Lake Mechanical Systems Upgrade (Project 5)
- High School Roof Replacement (Project 7)*

Projects denoted with an asterisk () were approved at 70% funding in a letter from DEED received on Wednesday 23 July via e-mail initiated by Ms. Lori Weed, School Finance Specialist II, Division of School Finance, Facilities, Department of Education and Early Development.

For more information on the specifics of the pool mechanical status and proposed projects see **Figures 1 & 2** below and the 2011 Jensen, Yorba, Lott Locker pool conceptual design study. This is a compendium of all reports on this facility since 2001 and is available on the Borough website at: \\Fileprint\File Cabinet\#PROJECTS\#OPEN PROJECTS\School & Pool Locker Rooms Renovation

<p>POOL LOCKER ROOM MECHANICAL SYSTEMS Existing Condition and Analysis <i>Mechanical Systems:</i> The mechanical systems were installed during the original construction of 1982. Hydronic hot water heating is also provided from the High School heating plant via heating piping routed through the underground tunnel entering the space in the northwest corner of the first floor Storage room adjacent to under pool/gym storage area. A tempering valve station is located in the first floor storage room that serves the hot water system.</p> <p>Ventilation unit VU-2 supplies heating and ventilation air to the locker room areas with roof mounted exhaust fan EF-5 exhausting air out of the toilet and shower areas. VU-2 unit is located in the mezzanine area above the pool lobby adjacent to pool ventilation VU-2.</p> <p>Exhaust fan EF-5 may have been replaced within the last 10 years but overall the ventilation/exhaust system nearing 30 years old is reaching its useful service life. The ventilation volumes are sufficient for delivering heating air and exhausting air but the system being full outside air/full exhaust is not efficient with no waste heat captured. The interior of the</p> <p>Haines School/Pool Locker Rooms Haines, Alaska</p>	<p>DRAFT</p>	<p>Mechanical System Condition Survey Page 2 of 4</p>
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Figure 1

SUBJ: General Obligation Bonds to Finance a Plan for Capital Improvements to School Facilities of the Borough

Murray & Associates, P. C. Consulting Engineers

SURVEY REPORT

PO Box 21081, Juneau, Alaska 99802-1081 (907) 780-6151 Fax: (907) 780-6182

ductwork is dirty and needs cleaning. The fans need thorough cleaning. The automatic controls of the system were upgraded recently but cover basic functions only.

Ventilation unit VU-1 serves the pool area and consists of a VU-2 with economizer section, EF-1 returning air to VU-1 or exhausting it out through a separate cross flow heat exchanger. Recent major maintenance work was done by owner recently within 2 years but the system has reached its useful life also, is in a poor location for ease of maintenance and expensive for repairs, and does not have the proper controls for managing its energy efficiency parameters.

Locker Room Architectural: Similar to locker rooms below. Ceilings and floors are old, worn looking with many locations of leakage and small repairs. Major maintenance of ceilings and floors will be required within 5-10 years. Lighting in area works but is from old inefficient fixtures and lamps with little diversity in control of lights. Hazardous materials such as asbestos pipe fittings or asbestos in wall board/joints are unknown at this time; however given the age of construction it is less likely that some hazardous materials are present compared to the school locker rooms.

Figure 2

Updates from DEED & SERRC: Since the authorization by the Assembly and the School Board the staff has coordinated with DEED and the Southeast Regional Resource Center (SERRC) to move the identified projects forward. A key benefit of obtaining funding through DEED is that there is a reimbursement of up to 70% on approved projects. Essentially, if full state funding were obtained the cost would be split with the Borough funding 30% and the State (DEED) funding 70%.

During the course of the staff's conversations with DEED and SERRC those organizations noted that the pool employees are Borough employees not School District Employees, the equipment and facilities are wholly owned and operated by the Borough, and the Borough charges the school for use of the facility. Based on this assessment DEED considers the Pool Building a Borough Building and not a school building. This disqualifies the pool from any level of debt reimbursement through DEED.

SUBJ: General Obligation Bonds to Finance a Plan for Capital Improvements to School Facilities of the Borough

After communications with both SERRC and DEED, and especially in light of the school/Borough MOU, the pool was removed from DEED’s school inventory list. In light of this development we have submitted an application to DEED for high school locker room renovations for \$783,938 without inclusion of the previously proposed pool renovations. The Borough staff continues to coordinate with DEED and SERRC for alternatives to fund the Pool Locker Room project. An option to consider is adjusting the MOU with the School so that the school would not have to pay the Borough for use of the facility. This might make the facility and the project eligible for partial funding (below 70%) but would mean a loss of payment for the school to the Borough of the percent not funded through grants. In a phone call with DEED on Monday 21 July, The Manager and the CFO discussed options. One of the key criteria that DEED looks at is inclusion of pool related activities in the academic curriculum and in this area we are deficient. We also requested information on those communities whose pools receive partial funding so that we can see if we have similar usage. We await input from DEED on this request.

Bottom Line: A GO bond for the Pool Locker room would not receive any reimbursement and would be wholly funded by the Borough. The architects’ revised estimate for just the pool locker room and mechanical remodel without the new elevator and stair (to reduce costs) is about \$975,000. It would cost approximately an additional \$400,000 to fund the project as originally envisioned.

Additional Note: If the school bond passes for upgrades to the school locker rooms, the pool work should be done concurrently as any work completed on the school locker rooms is likely to be damaged by leakage from the Pool Locker Room and associated mechanical equipment.

Current Status: Debt reimbursement applications were prepared, submitted, and approved to DEED for the following projects:

Haines Voc Ed Building Mechanical Upgrades:	\$1,711,027.00
Haines High School Air Handler Replacement:	\$412,367.00
Haines High School Locker Room Renovation:	\$783,938.00
Haines High School Roof Replacement:	\$1,814,747.00

Anticipated Mil Rates & Debt Service: The following assessment in **Figure 3** was produced by the Borough Finance Officer on 24 July 2014:

SUBJ: General Obligation Bonds to Finance a Plan for Capital Improvements to School Facilities of the Borough

Estimated annual debt service requirements in dollars and mills for school and non-school projects

July 24, 2014 version

The Borough has been approved for 70% debt reimbursement by the State of Alaska DEED for the four school projects listed below. The following chart shows an estimate of the annual debt service required to finance these projects and the estimated property tax mills needed to levy the Borough's required 30% payment. The lower half of the table shows estimated debt service and mills for other projects which may require bond funding in the next 3-5 years if other sources of funding cannot be identified. Note that although a mill equivalent is given for enterprise fund projects debt service for these projects would more likely be repaid with user fees to the extent that is possible.

	Estimated Project Cost	Estimated Annual Debt Pmt*	DEED 70% Debt Reimbursement	
			Annual Amt Needed with 70% reimbursement	Mills needed at 2014 Values
School Projects (30% paid by Haines Taxpayers / 70% Paid by State of AK)				
High School and Vocation Ed. Buildings				
High School Air Handling Unit	\$ 412,367	\$ 30,510	\$ 9,153	0.03
Vocational Ed. Mechanical Upgrades	1,711,027	126,596	37,979	0.13
High School Locker Room	783,938	58,002	17,401	0.06
High School Roof Repairs	1,814,747	134,270	40,281	0.14
	<u>4,722,079</u>	<u>349,379</u>	<u>104,814</u>	<u>0.36 **</u>
Non-School Projects (100% paid by Haines Taxpayers)				
Swimming Pool Facility Repairs & Upgrades	975,000	72,139	n/a	0.25
Completion of Harbor Expansion	11,000,000	813,873	n/a	2.81
Lutak Dock Repairs	6,000,000	443,931	n/a	1.53
Wastewater Treatment Plant Upgrades	3,000,000	221,965	n/a	0.77
	<u>20,975,000</u>	<u>1,551,908</u>		<u>5.35 **</u>

* Assumes a 20-year repayment schedule at 4.2% interest rate

**0.36 mills represents \$36 per year in taxes on a \$100,000 home.

5.35 mills represents \$535 per year in taxes on a \$100,000 home.

Figure 3

Ordinance Structure: The borough's bond counsel advised that a single ordinance could authorize multiple ballot measures to be placed on the ballot, and he has drafted a proposed ordinance containing a ballot question for each of the above four projects. As with any ordinance, the assembly may choose to amend it. Staff requests an assembly discussion of whether to submit an ordinance including the pool locker room outlining the following options:

Option 1: Propose 5 projects (1,2,3,5,6) as separate bond measures.

- Advantages: Each measure is voted on individual merits. 4 of five projects funded at 70% grant level.
- Disadvantages: De-links projects 3 and 6. Project 6 must be completed if Project 3 is approved or else Project 3 will continue to incur damage from mechanical systems related to project 6. Additionally, there is no grant funding anticipated for Project 6.

SUBJ: General Obligation Bonds to Finance a Plan for Capital Improvements to School Facilities of the Borough

Option 2: Propose 5 projects (1,2,3,5,6) as 4 bond measures with two projects (3 & 6) linked.

- Advantages: Links Projects 3 and 6 to the same bond measure and ensures concurrent work on linked projects. 4 of five projects funded at 70% grant level.
- Disadvantages: There is no grant funding anticipated for Project 6 and failure of the combined measures means Project 3 will be delayed

Option 3: Propose 3 projects (1,2,5) as Bond measures and delay 2 projects (3,6) until a determination on partial grant funding is made by DEED

- Advantages: Focuses bond measures on projects with approved grant funding and provides additional time to make a determination of partial funding availability for Projects 3 & 6. Retains required link between Projects 3 & 6.
- Disadvantages: Project 3 will be delayed

Additional Data: The funding requested for project at the \$1.4 million level is sufficient to address the mid-term items noted within the 2011 Jensen, Yorba, Lott condition study. In 2011 the condition study noted that 6.2 million dollars of work was required to address long term costs. Several projects have been completed since that report and others are being bid (lights for the pool). Other emergency maintenance has been accomplished that addressed some of the items noted in the 2007 condition report. I have requested that the Facilities Director make a more thorough determination of what has been accomplished, what projects are pending, and what this proposed project will accomplish and determine how far along the original condition study this will bring us. We will also need to factor in inflationary increases to the origin estimate of long-term costs. Some key questions to study are to what extent these upgrades will extend the life of the facility and to what extent does this life cycle extension justify the costs/investment.

- Current Pool Membership: 322 members
- FY 14 Usage rates: 14,428 visits
- FY 14/15 Operating Budgets: \$242,646/\$235,719
- FY 14/15 Revenue Under Expenditures: \$196,146/\$195,719

Respectfully Submitted,

David B. Sosa

Chilkat Center for the Arts

A Community Facility Operated by the Haines Borough

(907) 766-3573

facsimile (907) 766-3574

E-mail business@khns.org

Facility Administration Report

June 2014

Usage:

June at the Chilkat Center is the beginning of a slowed down class and performance schedule. Strongwomen and Melina's yoga along with several of the Jujutsu classes have taken the summer off and won't return until at least September or October.

The Lynn Canal Community Players hosted Hypnotist JayDee.

The kitchen continues to be used throughout the summer both by Sarah Jaymot and in a very limited way by the Rainbow Glacier Tours.

June 30th the lobby was used by the Haines Borough to host the city manager's town hall meeting. A well-attended and informational community event that we hope will continue.

The Children's Theater kicked off on June 30th and will culminate in a performance of Puss'n'Boots for the public on July 18th and 19th. This is an annual theater workshop/training for kids that provides opportunities for kids to be part of a team, learn to improvise and basically experience putting a performance together. 25 kids are participating this year and, as we heard during testimonials to both the Rasmuson and Murdoch Program Officers, this important course gives participants skills that can and are drawn on throughout their lives. It is always fun to walk through the theater and see these serious or comedic mini-thespians on the stage.

The Rasmuson Foundation granted over \$80,000 toward *the Light, Sound, Action!* Grant. The Murdoch Trust will be reviewing the matching grant request for similar funds this summer. Kudos for amazing work by the Foundation for the Chilkat Center. The research and effort put into determining the needs and following through with all the work necessary to solicit the needed funds shows impressive loyalty and determination on the part of the two boards and advocates of the CCA.

Maintenance

Thanks to the facility crew for working on the heating zones etc. I can't say enough good things about these guys. They are a credit to the borough with their quick response and unfailing good cheer. I feel lucky to work with them and give credit and appreciation to Carlos Jimenez for the more responsive direction the facilities maintenance have taken under his direction.

Things on the maintenance list:

Window replacement in the KHNS production and broadcast studios as well on the north side of the building. Dance Studio windows are unable to ventilate the room. We're worried that tenants unable to regulate temperature either in winter or summer will look for other options.

- Front door of the building and back door off the handicapped ramp have worn latches - front door has been sticking and back door doesn't close all the way.
- The area in the basement ladies bathroom that was patched up during the 2013 conference needs to be addressed with a long term solution.
- Railing for stairs at front side of building – in winter these steps can be dangerous

Submitted by Facilities Manager, Kay Clements, June 2014



Chilkat Center for the Arts			
6/30/2014			
Contact	Function	Participants	Amount
	Dance Studio		
Marnie Hartman	Yoga	79	120.00
Melina Shields	Yoga (summer hiatus)	0	0.00
Chorus Bishop	Seibukan Jujutsu (summer hiatus for most classes)	12	60.00
Nancy McGrew	Yoga Mon and Wed June	56	105.00
	Lobby		
Well and Fit	Morning Muscles	65	120.00
St Michael's	Sunday Services	150	375.00
Well and Fit	Strongwomen (summer hiatus)	0	0.00
Melissa Ganey	Bridal Reception	50	75.00
Haines Borough	Town Hall Meeting 6/30	50	n/c
	Conference Room		
KHNS	Board meeting June 17	8	n/c
CCA	Board meeting June 10	7	n/c
	Auditorium		
LCCP	JayDee Hypnotist	100	325.00
	Kitchen		
Sarah Jaymot	Sarah J's Shoppe	2	250.00
Joe Ordonez	Rainbow Glaciers fish cutting	2	60.00
	June Totals	581	1490.00

May 2014 Haines Vol. Fire Dept. Monthly Report

The Haines Vol. Fire Dept. had four fire callouts in May. The first call was for a motor vehicle accident. The second was for a house fire that resulted in fire damage and significant water damage. The third call was downed power line. The fourth was a false alarm. Fire callouts for 2014 total 10. The Haines Vol. Fire Dept. responded to 18 ambulance callouts in May. Calls included one with chest pain, one with respiratory distress, one with extremity trauma, one fall, one with pain, an abdominal pain, two motor vehicle accidents, a patient refusal, and 9 medivacs/transport. Ambulance callouts for 2014 total 103. There were no SAR callouts in May. SAR callouts for 2014 total 1.

The first joint meeting for May was a business meeting followed by training on HIPAA (Health Insurance Portability Accountability Act) which mandates what type of medical information can be released to the public. Knowing the rights & privacy of patients is important to lessen liability. The ambulance training was run reviews by Sponsor Dr. Dave McCandless and an overview of types of and treatment of poisons. We also practiced High Performance CPR. This method used by Medic 1 in Seattle has a much higher success rate for resuscitation. Key elements are hard & fast compression and limited interruptions on compressions. The fire training was canceled due to it being a holiday

Recent EMT 1 students from Jenn Walsh's class Andrew Cardella and Liz Wirik joined our Ambulance crew. We welcome their new energy and talents.

Multiple ambulance members helped take blood pressures, pulses & oxygen saturations at local grocery stores to raise health awareness during EMS week. Thanks to all that helped out with this event.

We gave out 6 scholarships for \$500 each to graduating seniors & former Haines graduates. Part of the proceeds from the 4th of July B-B-Q are used to fund this.

Volunteer Hours for May 2014

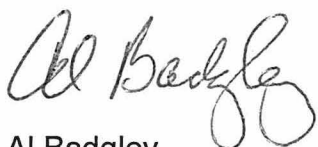
HVFD Fire	144	HVFD Ambulance	214	SAR
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Volunteer Hours for 2014

HVFD Fire	723	HVFD Ambulance	1596	SAR	341
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Total volunteer hours HVFD for 2014 2660 Hours

Respectfully submitted,



Al Badgley
HVFD Training Officer

June 2014 Haines Vol. Fire Dept. Monthly Report

The Haines Vol. Fire Dept. had two fire callouts in June. The first call was for a chimney fire that was out upon our arrival. The second was a false alarm. Fire callouts for 2014 total 12. The Haines Vol. Fire Dept. responded to 18 ambulance callouts in June. Calls included one with chest pain, one with respiratory distress, one fall, one seizure, one epistaxis (nosebleed), a burn patient, an altered level of consciousness, a standby for the bike race, a recall, and 9 medivacs/transport. Ambulance callouts for 2014 total 121. There were no SAR callouts in June. SAR callouts for 2014 total 1.

The first joint meeting for June was a business meeting followed by hose testing of hose on Engine 1 for fire responders and traction splinting practice on a new Slishman splint ((similar to a Kendrick Traction Splint). The ambulance training was EMT 2 Skills practicals for our 5 new EMT 2s. Other members assisted as proctors, victims and assistants. The fire training was repacking hose on Engine 1 after repairs were made on the tank. Airpack entry members were issued new SCBA masks received from a state grant.

Recent EMT 1 student Jenn Marschke from Jenn Walsh's class joined our Ambulance crew. We welcome her new energy and talents.

Tara Bicknell, Chris Downer, Meghan Elliott, Darwin Feakes, & Penny Fossman all passed their EMT 2 written portion and Chris needs to finish up his practicals as he had a work conflict that didn't allow him to take them. A big thanks goes out to Julie Anderson for her willingness to come teach this EMT 2 class and Jenn Walsh (for assisting). Having more EMT 2s will increase our advanced care level on calls.

I was out of town for most of June and I appreciate Jenn and all the crew for keeping things going smoothly.

Preparations continue for our fundraiser B-B-Q. This will be our 26th year. It takes many volunteers to make this happen. For those that make potato salad (200 lbs), cook beans (75 lbs), butter garlic bread (48 loaves), and cook/slice brisket (650 lbs) before hand THANKS!!!!

Volunteer Hours for June 2014

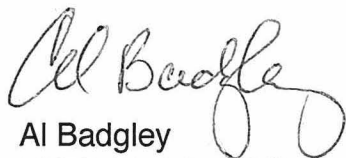
HVFD Fire	149	HVFD Ambulance	476	SAR
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Volunteer Hours for 2014

HVFD Fire	872	HVFD Ambulance	2072	SAR	341
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Total volunteer hours HVFD for 2014 3285 Hours

Respectfully submitted,



Al Badgley
HVFD Training Officer



**Haines Borough
Planning Commission Meeting
June 12, 2014
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 Lee **Heinmiller**, Heather **Lende**, Andy **Hedden**, and Robert **Venables**; **Absent:** Danny **Gonce**, and Don **Turner III**.

Staff Present: Stephanie **Scott**/Mayor, David **Sosa**/Borough Manager, and Tracy **Cui**/Planning & Zoning Technician III.

Also Present: Paul **Wheeler**, Rebecca **Heaton**, Scott **Sundberg**, James **Alborough**, Tim **Ward**, Debra **Schnabel** (liaison)

3. **APPROVAL OF AGENDA**

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

4. **APPROVAL OF MINUTES** – April 17, 2014 & May 8, 2014 Regular Meeting Minutes

Motion: **Heinmiller** moved to “approve the April 17, 2014 & May 8, 2014 Regular Meeting Minutes.” **Lende** seconded it. The motion carried unanimously.

5. **PUBLIC COMMENTS**

Scott invited the commissioners to attend the Energy Round Table. It is scheduled for 1:30 p.m. on June 26, 2014 at the library.

6. **CHAIRMAN’S REPORT**

Goldberg stated Roger Schnabel did a nice job crushing and covering the concrete slabs on Yngve Olsson’s property. It looks a lot better.

7. **STAFF REPORTS**

- A. **Planning & Zoning Report**

Cui reported recent permitting and enforcement activities.

Lende asked about “temporary residence” permits. **Cui** explained that if persons desiring to place a temporary residence, or a trailer or mobile home outside of a mobile home or RV park for a temporary occupancy shall apply for a temporary residence permit.

8. **PUBLIC HEARINGS**

- A. **Rezoning Petition – Chilkat Lake Road**

The Chairman **Goldberg** expressed concerns about the accuracy and completeness of the petition. Discussion ensued regarding what actions needed to take place at this meeting or if the Planning Commission had the option to defer this item until the next meeting. Code may need to be changed to allow the commission two meetings to

work with petitioners. The public was encouraged to work with the commission when developing future rezoning petitions.

No motion was made. **Sundberg** withdrew the rezoning petition.

9. **UNFINISHED BUSINESS** – None

10. **NEW BUSINESS**

A. **Historic District/Building Review** – None

B. **Haines Borough Code Amendments**

1. **Adding Setback Regulations to the General Use Zone**

Motion: **Lende** moved to “recommend the Borough adopt a construction declaration form that will come with an information sheet that will explain the zoning regulations and setbacks for the applicant’s location, and also amend the ordinance 13-12-358 by adding ‘public utilities’ to the list of exemptions to the setback requirements, and adding the General Use, the Mud Bay, and the Lutak Intet Planning/Zoning Districts to the setback chart with their respective setbacks established in code”. **Hedden** seconded it. The motion carried unanimously.

Goldberg and **Cui** will work on the information sheet. The amended ordinance 13-12-358 will be presented at the next regular meeting for the commissioners’ review.

C. **Project Updates** – None

D. **Other New Business**

1. **Classification of Borough Lands for Sale – Primary School Subdivision, Portion of Lot 8**

Motion: **Lende** moved to “recommend the Assembly classify a portion of lot 8, Primary School Subdivision for sale, and recommend the Borough Manager work with Haines Brewing Company to encourage them to purchase it”. **Hedden** seconded it. The motion carried unanimously.

2. **Downtown Revitalization Committee**

Motion: **Heinmiller** moved to “recommend the Assembly construct a walk/bike lane from Main Street to the edge of the Admin Building parking lot”. **Lende** seconded it. The motion carried unanimously.

3. **Library Extension Project**

The planning commissioners are in favor of the library expansion project. No motion was made.

4. **Primary School Subdivision**

Possible adjustments to the Primary School Subdivision were discussed.

Manager **Sosa** said he will direct Borough staff to organize a working group to advise the commission on potential changes to the subdivision.

11. **COMMISSION COMMENTS** – None

12. **COMMUNICATION** – None

13. **SET MEETING DATES** – The next regular Planning Commission meeting is scheduled for 6:30 p.m. on Thursday, July 10, 2014.
14. **ADJOURNMENT** – 9:32 p.m.

Tourism Advisory Board Meeting Agenda / Meeting Minutes

Tuesday, April 29 – 9:30 am (Assembly Chambers)

Meeting Call to Order: Barb Mulford – President – 9:30 am

Roll Call: Present Barb Mulford, Michael Marks, Rhonda Hinson, Karen Hess, Judy Heinmiller, Jeff Butcher, Scott Sunberg

Absent

Also Present Tammy Piper, Stephanie Scott, Diana Lapham, Carol Tuynman, Dave Sosa, Sue Waterhouse, Scott Pearce

Approval of excused / unexcused absences:

Approval of Agenda: Marks moved to approve the agenda and minutes, Hess seconded; all in favor.

***Approval of Minutes:** March

Public Comments: *Carol Tuynman, President of the Alaska Arts Confluence*

Stated she is interested in developing partnerships among civic group for art on Main Street and future project and presented a memo requesting a partnership with the Tourism Advisory Board with a letter of support. Hess moved to approve a letter of support, Heinmiller seconded; all in favor.

Sue Waterhouse, Cliffhanger B&B

Stated that some of her guests require a courtesy shuttle when they come from Skagway on the Fast Ferry but has been denied a parking permit at the PC Dock because the code does not cover this type of service and would like to address this issue.

Scott Pearce, Education Coordinator of Sheldon Museum

Presented the Sheldon Museum's Fortnight of Learning; presentations on the Haines Area.

Chair Report: *People Mover Cart-update*

Mulford stated People Mover Cart will only be used on the trestle and that the storage container will be in a different location any suggestions for a temporary fix. Hess stated for next year look at building up the sides opposite of the restrooms and making a storage unit there. After some discussion, Hess will talk with Carlos about the three options that were discussed for a storage area.

Pre-season Tour Operators Meeting-update

Hess clarifying that the Borough Administration coordinates the meeting with the operators to go over the tour operator's agreements for the new season. Piper stated that Julie is aware of this and a notice should be going out.

Haines Highway Improvements

Mulford has been contacted by Jim Shull who informed her of an environmental assessment being conducted for the project and a public comment period will open. Hess made a motion to support the highway project for the purpose of discussion, Sunberg seconded; all in favor. Lapham stated she is on the pro side because it will improve the highway.

New Business:

Tourism Director Position-Update

Mulford informed the applicant review committee has met narrowed the applicants down to three and they will be notified for interviews. Sunberg feels if we can't fill the position than go with an interim and look at the restructuring possibilities. Mulford stated the process is in motion and we do have a backup plan. Applicants are aware that it is a union position, what the salary scale is, and maybe job description audit is a possible.

Juneau Access Project

Mulford stated instead of the Haines Chamber writing a letter on the Juneau Access, a scheduled luncheon with Larry Higgins, project manager, is set. Where we can see where the project is going and asking questions and see why the west side hasn't been an option. Mulford recommended holding off on any statement until we get facts.

Lightering Float Agreement

Hess stated that the agreement was readdressed at the last Assembly meeting for clarification of the user fee rates and would like to have seen better communication because the rate increase was different than what she had thought. The agreement has been signed with no rate increase this year but takes effect next year. Sosa stated the first process is the open meetings of Ports and Harbors and to keep in mind the formal process.

Title V

Proposed Ordinance – Commercial Vehicle Permitting Elimination (Letter of Support)

Mulford stated they have eliminated the Commercial Vehicle Permitting.

PC Dock Parking Permits

Mulford wants to see section 5.20 Commercial Passenger Vehicle Permits removed because it is no longer applicable. Sunberg believes this will be a huge task we should go through it item by item and then bring to the appropriate committee with our changes to be considered. The board is unclear whether “a courtesy shuttle” is able to pickup/drop off at the PC Dock. Sunberg questions if the Borough is covering already other agency requirements also believes there are concerns with the PC Dock it should have a core value of how we can manage tourism right from the dock. Lapham stated to revisit Title V and clean it up and bring it back to the appropriate committee. Mulford will meet with the Manager for assistance so our accommodations courtesy shuttle can service their guests. Sunberg gave his intent to head the task force to work on Title V and have the recommendation by the end of summer to present to the Assembly. Scott stated think of the Manager as your colleague so he may help and work with you clarification and feedback. Mulford told Sunberg she wants a recommendation to TAB on Title V by the August meeting.

Old Business: PC Dock Construction - Update

Mulford stated the PC Dock should be completed by the time our first ship arrives. Scott would like the Governor to sign the Distillery Bill at the Distillery during the Ribbon Cutting Ceremony

Economic Impact Study - Update

Mulford stated this has been approved and how do we capitalize on this winter tourism that seems like it is growing and uncertain about the market base beyond heliskiing and working with Parks and Recreation on establishing trails and producing rack cards and posting online those services. Scott mentioned Bill Holten of the Nordic Ski Club has admitted a \$16,000.00 budget to the Borough to function and questions their non-profit status. Sunberg questioned who is going to be the go to person for McDowell on this study to make sure they get directed and something doesn't get missed and to include a couple years in the study. Scott mentioned Haines Junction has agreed to trade a Zamboni for fish which Daymond Hoffman has offered to supply. She also mentioned Kroes is leaving the Haines Parks and she is putting pressure on the State Parks to fill the position as soon as possible because the Parks has an agreement with DNR to be the lead agency managing the Chilkoot Corridor while having authority. Hess stated to remind them that the park fees paid every year by the operators don't go into the Haines area and would be reasonable to use the money extracted from this area go back into the ranger position.

Interim

Directors Update: Ship Pop-Up Displays

Piper stated that she is following the paper trail and is still getting everything together to follow through with ordering the displays.

Upcoming Schedule

Piper mentioned the Yukon Trade Show is this weekend and Linda is going and this is the first weekend open. We did hire our seasonal staff person and he is in training and will work this Saturday by himself. Coupon books have arrived and so businesses can pick them up along with our visitor guides. State of Alaska FAM is arriving May 14-15; our Tourism Community Night is May 5 at 5:30 all welcome to come. We have Alaska Host customer service training on May 6 at the Sheldon Museum. Hess questioned what the input was on the Cruise Ship Shuttle proposal, Piper stated 160 emails went out and 6 responses back and we should be approving the route the week of the 12th which may also work for the next season because of Princess and Celebrity dockings.

Board Comments:

Set Next Meeting Date: Friday, May 30, 2014 – 9:30 am

Assembly Chambers, Safety Building

Hess motioned to adjourn, Marks seconded; all in favor. Meeting ended at 11:39 pm.



**Haines Borough
Assembly Agenda Bill**

Agenda Bill No.: 13-395

Assembly Meeting Date: 7/29/14

Business Item Description:	Attachments:
Subject: Amend Title 18 to add setback regulations to the General Use zone & correct a setback definition typo	1. Ordinance 13-12-358, current draft 2. Planning Commission recommendation with proposed substitute ordinance
Originator: P&Z Technician III & Planning Commission	
Originating Department: Planning & Zoning	
Date Submitted: 7/10/14; originally 9/12/13	

Full Title/Motion:
Motions Already on the Table: Main Motion: Adopt Ordinance 13-12-358 Primary Amendment: "Replace the word "structures" with "permanent buildings" and remove the phrase "for all uses" on Page 3, Section C."

Administrative Recommendation:

Fiscal Impact:						
<table border="0" style="width:100%"> <tr> <td align="center">Expenditure Required</td> <td align="center">Amount Budgeted</td> <td align="center">Appropriation Required</td> </tr> <tr> <td align="center">\$ n/a</td> <td align="center">\$</td> <td align="center">\$</td> </tr> </table>	Expenditure Required	Amount Budgeted	Appropriation Required	\$ n/a	\$	\$
Expenditure Required	Amount Budgeted	Appropriation Required				
\$ n/a	\$	\$				

Comprehensive Plan Consistency Review:	
Comp Plan Policy Nos.: Page 151 - Future Growth; Page 199 - Goal 5; Page 200 - Objective 5G	Consistent: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Summary Statement:

This was introduced on 12/10/13 and had a first hearing on 1/14/14. On 1/28/14 it had a second hearing, and then a motion was made to adopt it. Following discussion, the ordinance was postponed to 2/11/14 and on that date during debate, an amendment motion was made. It was then postponed, prior to dispensing with the motions, so the planning commission and assembly member Schnabel could do further work on it.

The planning commission considered this matter during its June and July meetings, and are ready to return the ordinance to the assembly. The commission does recommend a substitute ordinance. Debate must resume with the motion to adopt and the motion to amend already on the table.

Important: the amendment motion on the table must be voted on first. After that, the proposed substitute could be considered.

Referral:
Sent to: _____ Date: _____ Recommendation: _____ Refer to: _____ Meeting Date: _____

Assembly Action:
Workshop Date(s): _____ Public Hearing Date(s): 1/14/14 and 1/28/14 Meeting Date(s): 12/10/13, 1/14, 1/28, 2/11, 7/29/14 Tabled to Date: _____

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.

BE IT ENACTED BY THE HAINES BOROUGH ASSEMBLY:

Section 1. Classification. This ordinance is of a general and permanent nature and if adopted with or without amendment shall become a part of the Haines Borough Code.

Section 2. Severability. If any provision of this ordinance or any application thereof to any person or circumstance is held to be invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

Section 3. Effective Date. This ordinance will become effective immediately upon adoption.

Section 4. Amendment of Section 18.80.030. Section 18.80.030 of the Haines Borough Code is hereby amended to read as follows:

NOTE: **Bolded/UNDERLINED** ITEMS ARE ADDITIONS TO THE CURRENT LANGUAGE
STRIKETHROUGH ITEMS ARE DELETED

18.20.020 Definitions – Regulatory

“Setback” means the perpendicular distance from the appropriate lot line to the nearest point on a building or structure, including, but not limited to, porches, steps, and roof edges.

18.80.030 Setbacks and height.

A. Setbacks are measured from the outermost portion of the building to the nearest lot line or building as appropriate. Incidental architectural features such as window sills, cornices and eaves may not project into any required setback. This ~~exemption~~ **regulation** also applies to cantilevered floors, decks or other similar building extensions. No building or structures may be located within a setback, except that fences may be constructed within the required setback by permit. The following items shall be exempt from setback requirements, provided the item is located to achieve its purpose without constituting a hazard to vehicles or pedestrians, is located such that it does not obscure sight angles at intersections or driveways, and is not in any location prohibited by state regulation:

1. Driveways and culverts that meet Chapter 12.08 HBC;
2. Parking areas that meet Chapter 10.44 HBC;
3. Satellite dishes;
4. Signs that meet Chapter 18.90 HBC; and
5. French drains, culverts, or similar infrastructure.

Where more than one setback standard is applicable, the most restrictive setback standard applies.

B. Height is measured from the average grade of the footprint of the structure to the highest point on the structure, measured at the center of each of the four exterior walls.

Haines Borough
Ordinance No. 13-12-358
Page 2 of 3

Setbacks and Height Restrictions by Zone								
Zoning District	Height Limit (in feet)	Industrial Setbacks (in feet) ***		Commercial Setbacks (in feet)		Residential Setbacks (in feet)		
		From Street Lot Lines	From Residential Lots	From Street or Alley Lot Lines	From Other Lot Lines	From Street Lot Lines	From Alley Lot Lines	From Other Lot Lines
I/H	30 *	0	50	0	0	N/A	N/A	N/A
I/L/C	30	0	50	0	0	20	10	10
I/W	30	0	50	0	0	20	10	10
C	30	0	50	0	0	20	10	10
W	30	0	50	0	0	20	10	10
SSA	30 **	N/A	N/A	10	5	20	10	10
SR	30	N/A	N/A	N/A	N/A	20	10	10
MR	30	N/A	N/A	0	0	20	10	10
RR	30	N/A	N/A	0	0	20	10	10
RMU	30	0	50	0	0	20	10	10
MU	30	0	50	0	0	20	10	10
REC	30	N/A	N/A	N/A	N/A	20	10	10

* May exceed 30 feet only by provisions of a conditional use permit granted by the planning commission.

** May be up to 40 feet under the provisions of a conditional use permit granted by the planning commission, but only if for a replica building replacing a building of that height that has been destroyed, and if all special provisions of the historic district and all other provisions of this title are met.

*** As long as all requirements of the state fire code or other applicable regulations are met.

Buildings constructed to zero lot line must be designed so that snow falling from the roof is not deposited on adjacent properties.

The distance between unattached buildings must be 15 feet unless approved as a conditional use by the planning commission. Building separation is intended for public safety; fire-related concerns must meet the approval of both the State Fire Marshal and local fire department, where applicable. The 15-foot separation between unattached buildings applies only when at least one of the buildings is for human occupancy.

Setbacks from anadromous fish streams: See HBC 18.60.010(P).

Between Second Avenue and the intersection of Union Street and Main Street, all structures must be set back 20 feet from lot lines adjacent to Union Street. Due to its historical nature, Block 16, Haines Townsite Subdivision shall have special setbacks. All structures built within Block 16 must be set back a minimum of 10 feet from any property lines not abutting Union Street.

Haines Borough
Ordinance No. 13-12-358
Page 3 of 3

If a publicly owned road easement exists inside of a property line, the setback shall be measured from the easement line and not the property line.

If a public utility easement exists inside of a property line, the setback shall be measured from the easement rather than the property line and shall be not less than 10 feet unless a variance is granted by the planning commission.

C. Structures shall be located no less than 20 feet from street lot lines, 10 feet from other lot lines for all uses in the General Use Zone.

ADOPTED BY A DULY CONSTITUTED QUORUM OF THE HAINES BOROUGH ASSEMBLY THIS _____ DAY OF _____, 2014.

Stephanie Scott, Mayor

ATTEST:

Julie Cozzi, MMC, Borough Clerk

Date Introduced:	12/10/13
Date of First Public Hearing:	01/14/14
Date of Second Public Hearing:	01/28/14 – Postponed to 2/11/14 meeting
Returned:	02/11/14 – Postponed for work with PC
Returned:	07/22/14

Haines Borough
**BOROUGH ASSEMBLY
ACTION REQUEST**

DATE: July 10, 2014

TO: Borough Assembly

FROM: Haines Borough Planning Commission

PLANNING COMMISSION ACTION: M/S Turner moved to “recommend the Assembly adopt substitute ordinance 13-12-358”. The motion passed unanimously.

RATIONALE: The original ordinance 13-12-358 was postponed. The Assembly was concerned the enforcement of a setback regulation in the General Use Planning/Zoning District may become a problem since the Borough does not have land use permit applications in this district. The Assembly assigned Assembly Member Debra Schnabel to work with the commission to address this concern.

At the July 10, 2014 planning commission meeting, the commission approved a new construction declaration form that comes with an information sheet that will explain the zoning regulations and setbacks for the applicant’s location. The commission believes if people are told what the setback regulations are, they will follow them. Also, the commission recommended the Assembly adopt the substitute ordinance 13-12-358 by adding “public utilities” and “fences outside of the townsite service area” to the list of exemptions to the setback requirements, and adding the General Use, the Mud Bay, and the Lutak Inlet Planning/Zoning Districts to the setback chart with their respective setbacks established in the Borough code.

The current code requires the construction of fences within the required setback is subject to permit. The commissioners discussed this requirement and decided that it is not a good idea to require land use permits to construct fences in Borough wide because the Borough does not have land use permit applications outside of the townsite service area. Therefore, “fences outside of the townsite service area” is proposed to be added to the list of exemptions to the setback requirements.

PLANNING COMMISSION REQUEST: for the Borough Assembly to amend HBC 18.80.030 to read:

A. Setbacks are measured from the outermost portion of the building to the nearest lot line or building as appropriate. Incidental architectural features such as window sills, cornices and eaves may not project into any required setback. This ~~exemption~~ **regulation** also applies to cantilevered floors, decks or other similar building extensions...The following items shall be exempt from setback requirements, provided the item is located to achieve its purpose without constituting a hazard to vehicles or

pedestrians, is located such that it does not obscure sight angles at intersections or driveways, and is not in any location prohibited by state regulation:

1. Driveways and culverts that meet Chapter 12.08 HBC;
2. Parking areas that meet Chapter 10.44 HBC;
3. Satellite dishes;
4. Signs that meet Chapter 18.90 HBC; and
5. French drains, culverts, or similar infrastructure; and
- 6. Public utilities;**
- 7. Fences outside of the townsite service area.**

Where more than one setback standard is applicable, the most restrictive setback standard applies.

B. Height is measured from the average grade of the footprint of the structure to the highest point on the structure, measured at the center of each of the four exterior walls.

Setbacks and Height Restrictions by Zone								
Zoning District	Height Limit (in feet)	Industrial Setbacks (in feet) ***		Commercial Setbacks (in feet)		Residential Setbacks (in feet)		
		From Street Lot Lines	From Residential Lots	From Street or Alley Lot Lines	From Other Lot Lines	From Street Lot Lines	From Alley Lot Lines	From Other Lot Lines
I/H	30 *	0	50	0	0	N/A	N/A	N/A
I/L/C	30	0	50	0	0	20	10	10
I/W	30	0	50	0	0	20	10	10
C	30	0	50	0	0	20	10	10
W	30	0	50	0	0	20	10	10
SSA	30 **	N/A	N/A	10	5	20	10	10
SR	30	N/A	N/A	N/A	N/A	20	10	10
MR	30	N/A	N/A	0	0	20	10	10
RR	30	N/A	N/A	0	0	20	10	10
RMU	30	0	50	0	0	20	10	10

Setbacks and Height Restrictions by Zone								
Zoning District	Height Limit (in feet)	Industrial Setbacks (in feet) ***		Commercial Setbacks (in feet)		Residential Setbacks (in feet)		
		From Street Lot Lines	From Residential Lots	From Street or Alley Lot Lines	From Other Lot Lines	From Street Lot Lines	From Alley Lot Lines	From Other Lot Lines
MU	30	0	50	0	0	20	10	10
REC	30	N/A	N/A	N/A	N/A	20	10	10
<u>GU</u>	<u>N/A</u>	<u>20</u>	<u>10</u>	<u>20</u>	<u>10</u>	<u>20</u>	<u>10</u>	<u>10</u>
<u>MBRR***</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>25</u>	<u>25</u>	<u>25</u>
<u>LUTAK RR****</u>	<u>35</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>10</u>	<u>10</u>	<u>10</u>

* May exceed 30 feet only by provisions of a conditional use permit granted by the planning commission.

** May be up to 40 feet under the provisions of a conditional use permit granted by the planning commission, but only if for a replica building replacing a building of that height that has been destroyed, and if all special provisions of the historic district and all other provisions of this title are met.

***As long as all requirements of the state fire code or other applicable regulations are met.

*** The Chilkat State Park Road right-of-way is exempt from the setback requirements.

**** Exception: Properties located along the Lutak Spur road (from the Chilkoot River bridge to the end of the road) where there will be no minimum setback along the road front right-of-way. Setbacks will apply for all other property lines along the Lutak Spur road.

SUBMITTED BY Rob Goldberg (signature)
 Rob Goldberg
 Planning Commission Chair

HAINES BOROUGH, ALASKA

ORDINANCE No. 13-12-358

AN ORDINANCE OF THE HAINES BOROUGH AMENDING BOROUGH CODE SECTION 18.80.030 TO ADD "PUBLIC UTILITIES" AND "FENCES OUTSIDE OF THE TOWNSITE SERVICE AREA" TO THE LIST OF EXEMPTIONS TO THE SETBACK REQUIREMENTS, TO ADD THE GENERAL USE, THE MUD BAY, AND THE LUTAK INLET PLANNING/ZONING DISTRICTS TO THE SETBACK CHART WITH THEIR RESPECTIVE SETBACKS ESTABLISHED IN CODE, AND TO CORRECT A TYPOGRAPHICAL ERROR TO MAKE IT CONSISTENT WITH THE SECTION 18.20.020 DEFINITION OF SETBACK.

BE IT ENACTED BY THE HAINES BOROUGH ASSEMBLY:

Section 1. Classification. This ordinance is of a general and permanent nature and if adopted with or without amendment shall become a part of the Haines Borough Code.

Section 2. Severability. If any provision of this ordinance or any application thereof to any person or circumstance is held to be invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

Section 3. Effective Date. This ordinance will become effective immediately upon adoption.

Section 4. Amendment of Section 18.80.030. Section 18.80.030 of the Haines Borough Code is hereby amended to read as follows:

NOTE: **Bolded/UNDERLINED** ITEMS ARE ADDITIONS TO THE CURRENT LANGUAGE
~~STRIKETHROUGH~~ ITEMS ARE DELETED
GRAY HIGHLIGHTED ITEMS ARE ADDITIONAL AMENDMENTS TO THE ORDINANCE
NO.13-12-358

18.20.020 Definitions – Regulatory

"Setback" means the perpendicular distance from the appropriate lot line to the nearest point on a building or structure, including, but not limited to, porches, steps, and roof edges.

18.80.030 Setbacks and height.

A. Setbacks are measured from the outermost portion of the building to the nearest lot line or building as appropriate. Incidental architectural features such as window sills, cornices and eaves may not project into any required setback. This ~~exemption~~ **regulation** also applies to cantilevered floors, decks or other similar building extensions. No building or structures may be located within a setback, except that fences may be constructed within the required setback by permit. The following items shall be exempt from setback requirements, provided the item is located to achieve its purpose without constituting a hazard to vehicles or pedestrians, is located such that it does not obscure sight angles at intersections or driveways, and is not in any location prohibited by state regulation:

1. Driveways and culverts that meet Chapter 12.08 HBC;
2. Parking areas that meet Chapter 10.44 HBC;
3. Satellite dishes;

4. Signs that meet Chapter 18.90 HBC; and
5. French drains, culverts, or similar infrastructure; and
- 6. Public utilities;**
- 7. Fences outside of the townsite service area.**

Where more than one setback standard is applicable, the most restrictive setback standard applies.

B. Height is measured from the average grade of the footprint of the structure to the highest point on the structure, measured at the center of each of the four exterior walls.

Setbacks and Height Restrictions by Zone								
Zoning District	Height Limit (in feet)	Industrial Setbacks (in feet) ***		Commercial Setbacks (in feet)		Residential Setbacks (in feet)		
		From Street Lot Lines	From Residential Lots	From Street or Alley Lot Lines	From Other Lot Lines	From Street Lot Lines	From Alley Lot Lines	From Other Lot Lines
I/H	30 *	0	50	0	0	N/A	N/A	N/A
I/L/C	30	0	50	0	0	20	10	10
I/W	30	0	50	0	0	20	10	10
C	30	0	50	0	0	20	10	10
W	30	0	50	0	0	20	10	10
SSA	30 **	N/A	N/A	10	5	20	10	10
SR	30	N/A	N/A	N/A	N/A	20	10	10
MR	30	N/A	N/A	0	0	20	10	10
RR	30	N/A	N/A	0	0	20	10	10
RMU	30	0	50	0	0	20	10	10
MU	30	0	50	0	0	20	10	10
REC	30	N/A	N/A	N/A	N/A	20	10	10
<u>GU</u>	<u>N/A</u>	<u>20</u>	<u>10</u>	<u>20</u>	<u>10</u>	<u>20</u>	<u>10</u>	<u>10</u>
<u>MBRR***</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>25</u>	<u>25</u>	<u>25</u>
<u>LUTAK RR****</u>	<u>35</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>10</u>	<u>10</u>	<u>10</u>

* May exceed 30 feet only by provisions of a conditional use permit granted by the planning commission.

** May be up to 40 feet under the provisions of a conditional use permit granted by the planning commission, but only if for a replica building replacing a building of that height that has been destroyed, and if all special provisions of the historic district and all other provisions of this title are met.

*** As long as all requirements of the state fire code or other applicable regulations are met.

***** The Chilkat State Park Road right-of-way is exempt from the setback requirements.**

****** Exception: Properties located along the Lutak Spur road (from the Chilkoot River bridge to the end of the road) where there will be no minimum setback along the road front right-of-way. Setbacks will apply for all other property lines along the Lutak Spur road.**

Buildings constructed to zero lot line must be designed so that snow falling from the roof is not deposited on adjacent properties.

The distance between unattached buildings must be 15 feet unless approved as a conditional use by the planning commission. Building separation is intended for public safety; fire-related concerns must meet the approval of both the State Fire Marshal and local fire department, where applicable. The 15-foot separation between unattached buildings applies only when at least one of the buildings is for human occupancy.

Setbacks from anadromous fish streams: See HBC 18.60.010(P).

Between Second Avenue and the intersection of Union Street and Main Street, all structures must be set back 20 feet from lot lines adjacent to Union Street. Due to its historical nature, Block 16, Haines Townsite Subdivision shall have special setbacks. All structures built within Block 16 must be set back a minimum of 10 feet from any property lines not abutting Union Street.

If a publicly owned road easement exists inside of a property line, the setback shall be measured from the easement line and not the property line.

If a public utility easement exists inside of a property line, the setback shall be measured from the easement rather than the property line and shall be not less than 10 feet unless a variance is granted by the planning commission.



**Haines Borough
Assembly Agenda Bill**

Agenda Bill No.: 14-493

Assembly Meeting Date: 7/29/14

Business Item Description:	Attachments:
Subject: Authorize Change Order with Southeast Road Builders to Pave Oslund Drive	1. Resolution 14-07-577 2. Project Narrative
Originator: Director of Public Facilities	
Originating Department: Public Facilities	
Date Submitted: 7/24/14	

Full Title/Motion:
Motion: Adopt Resolution 14-07-577.

Administrative Recommendation:
This resolution is recommended by the Director of Public Facilities.

Fiscal Impact:			
Expenditure Required	Amount Budgeted	Appropriation Required	Projected Impact to Future Operating Budgets
\$ 89,500	\$ 89,500	\$ 0	Reduced Maintenance Costs

Comprehensive Plan Consistency Review:	
Comp Plan Goals/Objectives: Objective 15D, page 254	Consistent: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Summary Statement:
<p>The Haines Borough Assembly on 7/9/13 authorized a construction contract with Southeast Road Builders, Inc. for the Highland Estates Water System Upgrade project for an amount not-to-exceed \$594,075. The first phase of this project concluded in November 2013 and, at that time, the Director of Public Facilities was in communication with the Alaska Department of Environmental Conservation (ADEC) regarding chip sealing Oslund Drive. ADEC is funding a portion of the Highland Estates project with a \$551,250 grant for Asbestos Cement Pipe Replacement (MMG #39542) that covers up to 70 percent of approved costs. Southeast Road Builders quoted prices of \$71,820 for chip sealing Oslund Drive and \$89,500 for asphalt paving. ADEC has since confirmed it will fund 70 percent of the cost for chip sealing, with the Borough to fund the upgrade for paving. The Borough has funding in the FY15 budget's Capital Improvement Projects (CIP) fund for Road Improvements and from a Designated Legislative Grant for Road Rehabilitation and Maintenance, sufficient to cover the remainder of the change order.</p>

Referral:	
Referred to:	Referral Date:
Recommendation:	Meeting Date:

Assembly Action:	
Meeting Date(s): 7/29/14	Public Hearing Date(s):
	Postponed to Date:

A Resolution of the Haines Borough Assembly authorizing the Borough Manager to execute a contract change order with Southeast Road Builders, Inc. for the Highland Estates Water System Upgrade project for an amount not-to-exceed \$89,500 to pave Oslund Drive as approved by the Alaska Department of Environmental Conservation.

WHEREAS, the Haines Borough Assembly on 7/9/13 authorized a construction contract with Southeast Road Builders, Inc. for the Highland Estates Water System Upgrade project for an amount not-to-exceed \$594,075; and

WHEREAS, the work consisted of furnishing and installing approximately 3,750' of 8-inch AWWA C-900 PVC water pipe and associated fire hydrants, water services and gate valves; and removal of existing asphalt chip seal road surfacing, replacing it with a D-1 surface and imported backfill in areas with unsuitable subsurface soils; and

WHEREAS, the first phase of this project concluded in November 2013 and, at that time, the Director of Public Facilities was in communication with the Alaska Department of Environmental Conservation (ADEC) regarding chip sealing Oslund Drive; and

WHEREAS, ADEC is funding a portion of the Highland Estates project with a \$551,250 grant for Asbestos Cement Pipe Replacement (MMG #39542) that covers up to 70 percent of approved costs; and

WHEREAS, Southeast Road Builders quoted prices of \$71,820 for chip sealing Oslund Drive and \$89,500 for asphalt paving; and

WHEREAS, ADEC has since confirmed it will fund 70 percent of the cost for chip sealing, with the Borough to fund the upgrade for paving; and

WHEREAS, the Borough has funding in the FY15 budget's Capital Improvement Projects (CIP) fund for Road Improvements and from a Designated Legislative Grant for Road Rehabilitation and Maintenance, sufficient to cover the remainder of the change order,

NOW, THEREFORE, BE IT RESOLVED that the Haines Borough Assembly authorizes the Borough Manager to execute a contract change order with Southeast Road Builders, Inc. for the Highland Estates Water System Upgrade project for an amount not-to-exceed \$89,500 to pave Oslund Drive as approved by the Alaska Department of Environmental Conservation.

Adopted by a duly-constituted quorum of the Haines Borough Assembly on this ____ day of _____, 2014.

Stephanie Scott, Borough Mayor

Attest:

Julie Cozzi, MMC, Borough Clerk

Krista Kielsmeier

From: Krista Kielsmeier
Sent: Thursday, June 26, 2014 11:04 AM
To: Carlos Jimenez
Cc: Julie Cozzi
Subject: Oslund Narrative

The Haines Borough is requesting a change order (\$89,500) with Southeast Road Builders for the Highland Estates Water System Upgrade project to pave Oslund Drive. The first phase of this project concluded in November 2013. At that time, Public Facilities Director Carlos Jimenez was in communication with Frank Toth at the Alaska Department of Environmental Conservation regarding chip sealing Oslund “so that we can return Oslund to the state it was in or better by resurfacing the road.” DEC is funding a portion of the Highland Estates project with a \$551,250 grant for Asbestos Cement Pipe Replacement (MMG#39542) that covers up to 70 percent of approved costs.

Funding for this grant was included in the Governor’s FY14 budget. The Borough submitted additional paperwork back in August 2013 as part of the process for finalizing the grant award. The Borough did not receive the official grant agreement until March 2014. The assembly authorized entering into the grant agreement by resolution on May 27, 2014.

The project description for this grant is to “replace approximately 3,400 feet of asbestos cement pipe in the vicinity of Muncaster Road and associated appurtenances.” Throughout the process of awaiting the official grant agreement, Carlos has been in repeated communication with DEC regarding whether the grant would also cover chip-sealing Oslund. In November 2013, an e-mail from Toth at DEC indicated, “I will respond to your chip seal question once I get a few moments to review the questionnaires/agreements.” In March 2014, Carlos sent a Southeast Road Builders proposal to DEC with pricing for resurfacing 1,200 feet of Oslund that were impacted when the waterline was replaced. Carlos also asked whether DEC would be willing to fund the cost for chip sealing, with the Borough funding an upgrade for paving. Toth responded in April 2014, “ADEC will fund the cost of replacing the existing surface. If the community wants to upgrade then they will need to pay the differences on their own.”

Carlos then sent a revised proposal from Southeast Road Builders on April 30, with a price for chip seal of \$71,820 and a price for asphalt of \$89,500. Carlos sought clarification of whether the Borough would be responsible for the difference of \$17,680 that would upgrade to asphalt. Toth responded on June 5th: “You are correct. The State will either replace the existing surface or – if the original surface was something like a dirt road, replace with the minimum good road surface. Chip seal would meet that criteria.”

Now that the grant agreement is in place and the Borough has received clarification from DEC, Carlos recommends a change order for the Highland Estates project to add paving Oslund Drive to the scope of work.

Krista Kielsmeier
Deputy Clerk
Haines Borough
Office: 907-766-2231 ext. 36



**Haines Borough
Assembly Agenda Bill**

Agenda Bill No.: 14-494

Assembly Meeting Date: 7/29/14

Business Item Description:	Attachments:
Subject: Authorize Contract with Bicknell, Inc. to Remove and Dispose of Contaminated Soil	1. Resolution 14-07-578 2. Contaminated Soils Contingency Plan 3. Approval E-mail from Alaska Department of Environmental Conservation
Originator: Director of Public Facilities	
Originating Department: Public Facilities	
Date Submitted: 7/24/14	

Full Title/Motion:
Motion: Adopt Resolution 14-07-578.

Administrative Recommendation:
This resolution is recommended by the Director of Public Facilities.

Fiscal Impact:

Expenditure Required	Amount Budgeted	Appropriation Required	Projected Impact to Future Operating Budgets
\$ 50,000	\$ 50,000	\$ 0	N/A

Comprehensive Plan Consistency Review:

Comp Plan Goals/Objectives: Goal 4, Page 144	Consistent: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
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Summary Statement:

The Haines Borough Assembly on 5/13/14 authorized a construction contract with Southeast Road Builders, Inc. for the Third Avenue Improvements project for an amount not-to-exceed \$1,130,500. The project included installation of new culverts for the storm drain system, and the Haines Borough has 210 yards of contaminated soil discovered during this portion of the project. The State of Alaska Department of Environmental Conservation (ADEC) has stated that shipping the soil to an authorized soil remediation facility is the best course of action. The Haines Borough solicited quotes from authorized soil remediation services. Bicknell, Inc. provided the best overall quote for removal and disposal of this soil. Bicknell, Inc. can provide this service to the Haines Borough in a timely manner in accordance with the Borough's ADEC-approved contaminated soils contingency plan prepared in anticipation of the Third Avenue project. The Borough has sufficient funding in the FY15 budget's Capital Improvement Projects (CIP) fund for Road Improvements and from a Designated Legislative Grant for Road Rehabilitation and Maintenance.

Referral:

Referred to:	Referral Date:
Recommendation:	Meeting Date:

Assembly Action:

Meeting Date(s): 7/29/14	Public Hearing Date(s):
	Postponed to Date:

A Resolution of the Haines Borough Assembly authorizing the Borough Manager to contract with Bicknell, Inc. for an amount not-to-exceed \$50,000 for the removal and disposal of 210 yards of contaminated soil.

WHEREAS, the Haines Borough Assembly on 5/13/14 authorized a construction contract with Southeast Road Builders, Inc. for the Third Avenue Improvements project for an amount not-to-exceed \$1,130,500; and

WHEREAS, the project included installation of new culverts for the storm drain system; and

WHEREAS, the Haines Borough has 210 yards of contaminated soil discovered during this portion of the project; and

WHEREAS, the State of Alaska Department of Environmental Conservation (ADEC) has stated that shipping the soil to an authorized soil remediation facility is the best course of action; and

WHEREAS, the Haines Borough solicited quotes from authorized soil remediation services; and

WHEREAS, Bicknell, Inc. provided the best overall quote for removal and disposal of this soil; and

WHEREAS, Bicknell, Inc. can provide this service to the Haines Borough in a timely manner in accordance with the Borough's ADEC-approved contaminated soils contingency plan prepared in anticipation of the Third Avenue project; and

WHEREAS, the Borough has sufficient funding in the FY15 budget's Capital Improvement Projects (CIP) fund for Road Improvements and from a Designated Legislative Grant for Road Rehabilitation and Maintenance,

NOW, THEREFORE, BE IT RESOLVED that the Haines Borough Assembly authorizes the Borough Manager to contract with Bicknell, Inc. for an amount not-to-exceed \$50,000 for the removal and disposal of 210 yards of contaminated soil.

Adopted by a duly-constituted quorum of the Haines Borough Assembly on this ____ day of _____, 2014.

Stephanie Scott, Borough Mayor

Attest:

Julie Cozzi, MMC, Borough Clerk



ENGINEERS, INC.

MEMORANDUM

To: Mr. Carlos Jimenez, Director of Public Works
Haines Borough

Date: April 2, 2014
Project No: 072071.04

Cc: Bruce Wanstall, Contaminated Site Project Manager
Alaska Department of Environmental Conservation

From: Sean Sjostedt, Staff Engineer

Subject: 3rd Avenue – Contingency Plan for Encountering Potentially Contaminated Soils

1.0 Introduction

The Haines Borough (Borough) is proposing to reconstruct and improve approximately 1,000 linear feet of roadway in Haines, Alaska. The base bid project site consists of 3rd Avenue between Main Street and Haines Highway. Additive Alternate A consists of the Haines Borough Administration Building parking lot. An area at the southern end of the project site near Mountain Market has been classified as a Contaminated Site by the Alaska Department of Environmental Conservation (DEC). Per the recommendation of the DEC, PND Engineers, Inc. (PND) has developed this contingency plan in an effort to minimize delays and associated costs in the event that contaminated soils are encountered during construction of 3rd Avenue.

2.0 Project Description

Improvements to 3rd Avenue will include roadway reconstruction, new sidewalks with curb and gutter, and new underground storm sewer systems. Similar improvements are scheduled for the Haines Borough Administration Building parking lot. Reconstruction of the existing roadway will involve excavating to a depth of approximately 18 inches (in.) below existing grade and backfilling with new subbase and base course, followed by surfacing with asphalt concrete pavement. Installation of the new storm sewer system will involve excavations for storm sewer pipes and structures to a maximum depth of approximately 5 feet (ft), placement of pipes and structures, and backfilling with new bedding and subbase material. The horizontal construction limits do not extend beyond previously disturbed areas.

3.0 Project Area Background

Several small businesses, parking areas, and Haines Borough facilities are located adjacent to the project site. The primary area that this report concerns is in the vicinity of Mountain Market (owned and operated by Mountain Corporation), on the northwest corner of the intersection of 3rd Avenue and Haines Highway. The Mountain Market site was operated as an automotive service and fuel station from the 1950s until the 1990s. Beginning in 1991, after its purchase of the property, Mountain Corporation took corrective measures to monitor and remediate soil contamination resulting from underground fuel storage tanks and prior automotive service activities. In June 2012, ADEC issued a Corrective Action Complete determination to Mountain Corporation, which designated the site as closed and requires no further assessment or cleanup action. A full background of the site as well as details of the corrective measures taken can be found in the DEC letter to Mountain Corporation dated June 27, 2012 in Appendix B of this report.

4.0 Contingency Plan

The roadway excavation is not anticipated to extend to depths where petroleum contaminants have been encountered in past monitoring projects. However, excavations for storm sewer pipes and structures will extend beyond the general road excavation and have greater potential for encountering fuel contaminants.

This section describes measures to be taken by the Haines Borough and Contractor in the event that fuel contaminants are encountered during construction.

4.1 Monitoring During Construction

The Haines Borough plans to employ a full-time construction inspector (Inspector) who will act as both the Owner's representative and contact for the design engineer (if the design engineer is not employed by the owner for inspection services). The Inspector will work with the Contractor to observe for any olfactory or visible sign of petroleum product contamination. If contamination is observed, the Inspector or Contractor will notify the Owner, Engineer, and DEC immediately. If the Inspector is not on site, the Contractor shall be responsible for monitoring excavations for possible contaminants and shall contact the aforementioned parties.

4.2 Action 1 – Return Soil to Excavation

If contaminated soils are encountered, the structural quality of the soil will be evaluated by the Engineer for reuse as suitable backfill material. If the Engineer determines that the soil is suitable for backfill material, the soil will be placed back in the excavation at the same approximate depth from which it was removed.

Soil that is temporarily stockpiled on site while utilities are installed will be placed on asphalt or a liner and will be covered with 6-mil HDPE minimum as necessary, pursuant to 18 AAC 75.370, to prevent contaminants from migrating into stormwater runoff.

4.3 Action 2 – Remove Soil from Site

If the Engineer determines that contaminated soils encountered will not suffice for backfill material, the soil will be removed from the project site and stockpiled in accordance with 18 AAC 75.370 at the Haines Wastewater Treatment Plant located at 229 Fair Drive. This site is currently used by the Borough for stockpiling contaminated soil (it is understood that this site has been approved for this use by the DEC).

Trucks used to haul contaminated soil from the project site to the designated storage site will be equipped with troughs on the back of the dump beds to catch contaminated water if the soil being removed is saturated. The trough will be emptied into containers, such as oil drums, on site as necessary. The soil will be allowed to adequately drain and the trough will be emptied before the truck leaves the site.

4.4 Soil Sampling and Contaminant Analysis

Given the site's extensive sampling and monitoring history, no additional sampling will be performed for the purpose of laboratory testing unless directed otherwise by the DEC.

5.0 Closure

PND is not responsible for the implementation of the contaminated soil contingency plan described in this report. It is solely the Contractor's responsibility to comply with the terms of this contingency plan. The Haines Borough is solely responsible for securing a contaminated soil disposal site (it is understood that the Haines Borough currently has a DEC approved storage site and that site will be utilized during this project).

6.0 References

Alaska Department of Environmental Conservation. *18 AAC 75 – Oil and Other Hazardous Substances Pollution Control*. Revised as of April 8, 2012.

Alaska Department of Environmental Conservation. *18 AAC 78 – Underground Storage Tanks*. Amended as of July 19, 2013.

INDEX OF APPENDICES

Appendix A – Project Limits/Contaminated Site

Appendix B – ADEC Decision Document: Corrective Action Complete Determination

Krista Kielsmeier

To: Carlos Jimenez
Subject: RE: Haines 3rd Ave Contaminated Soils Contingency Plan

From: Wanstall, Bruce (DEC) [<mailto:bruce.wanstall@alaska.gov>]

Sent: Friday, April 04, 2014 2:34 PM

To: Sean Sjostedt

Subject: Haines 3rd Ave Contaminated Soils Contingency Plan

RE: Third Avenue Utility Project –Haines
Contaminated Media Contingency Management Plan (Plan)

Hello Sean,

I thank you for working with Carlos to develop the Plan. After comparison to the DEC guide (attached) I think there is enough in the Plan to approve it and move forward.

It is my sincere hope that the project can be done during the dry summer months when there is little or no shallow groundwater at the site in Haines. I have seen a pattern develop regarding groundwater in the lower elevation properties in Haines. During spring groundwater levels build with flow from upland snow melt and eventually pass through to the Chilkat River. After that groundwater gets quite low and then in the fall rainfall increases and groundwater is recharged by infiltrating water. Extensive dewatering could require a storm water general permit (AKG003000) listed on the bottom of this webpage: <http://dec.alaska.gov/water/wwdp/NoticeOfReview.htm>

In accordance with Title 18 Alaska Administrative Code 75.360, DEC approves the Contaminated Soils Contingency Plan (attached). The Plan is consistent with Department guidance (attached) regarding projects in Right of Ways adjacent to listed Contaminated Sites. DEC has informed the owner of Mountain Market by telephone today of the pending work (Mary Jean Sebens 907-766-3456). DEC asks that Ms. Sebens be copied in communication by the Haines Borough with a copy of the Plan and a schedule for the project to begin.

Thanks for your time spent on this, have a nice weekend.

Bruce

Bruce Wanstall
DEC Contaminated Sites Program
Ph 907-465-5210

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From: Sean Sjostedt [<mailto:SSjostedt@pndengineers.com>]

Sent: Wednesday, April 02, 2014 9:59 AM

To: Wanstall, Bruce (DEC)

Subject: Haines 3rd Ave Contaminated Soils Contingency Plan

Hi Bruce,

I was hoping you might be willing to do a brief review of the attached contingency plan regarding potentially encountering contaminated soils while reconstructing 3rd Avenue in Haines. Basically hoping to get your OK on the content and contingency plan process. I can make any changes you like or we can discuss them, after which I will send to

the Haines Borough for their use. Please let me know if this works for you or if I should be doing something different, and thanks for the help.

Sean Sjostedt, E.I.T. | Staff Engineer

P|N|D Engineers, Inc.

9360 Glacier Highway, Suite 100, Juneau, AK 99801

p. 907.586.2093 f. 907.586.2099 c. 907.321.1657

ssjostedt@pndengineers.com | www.pndengineers.com

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**Haines Borough
Assembly Agenda Bill**

Agenda Bill No.: 14-488

Assembly Meeting Date: 7/29/14

Business Item Description:	Attachments:
Subject: Put Question on the October 7, 2014 ballot to amend the charter to remove requirement for 40% of the vote	1. Ordinance 14-07-384 2. 2014 Local Legislative Priorities
Originator: Borough Clerk	
Originating Department: Administration	
Date Submitted: 7/14/14	

Full Title/Motion:
Motion: Introduce Ordinance 14-07-384 and set a first public hearing for 8/12/14.

Administrative Recommendation:
(Empty)

Fiscal Impact:		
Expenditure Required	Amount Budgeted	Appropriation Required
\$ n/a	\$	\$

Comprehensive Plan Consistency Review:	
Comp Plan Policy Nos.:	Consistent: <input type="checkbox"/> Yes <input type="checkbox"/> No

Summary Statement:
<p>The assembly met as a Committee of the Whole on 5/6/14 and developed local legislative priorities for FY15. One of the priorities is "retirement" of the charter and code requirement for a candidate to have at least 40% of votes cast in order to be elected to office. Ordinance 14-07-384 is in response to this and adoption would put the charter amendment question on the 10/7/14 ballot because amending the charter requires voter ratification.</p> <p>An ordinance to amend code does not require voter approval, so Ordinance 14-07-385 is being introduced separately (see Agenda Bill 14-489). If adopted, that ordinance will only become effective if the charter is amended.</p>

Referral:			
Sent to:		Date:	
Recommendation:	Refer to:	Meeting Date:	

Assembly Action:	
Workshop Date(s): Meeting Date(s): 7/29/14	Public Hearing Date(s): Tabled to Date:

An ordinance of the Haines Borough placing a proposition on the October 7, 2014 Haines Borough General Election ballot to amend Borough Charter Section 16.04 to remove the requirement for a runoff election if a candidate does not receive at least 40% of votes cast to be elected to borough office.

BE IT ENACTED BY THE HAINES BOROUGH ASSEMBLY:

Section 1. Classification. This ordinance is a non-code ordinance authorizing placing a proposed amendment to the Haines Borough Charter on the ballot for the 2014 general municipal election.

Section 2. Severability. If any provision of this ordinance or any application thereof to any person or circumstance is held to be invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

Section 3. Proposed Amendment of Charter Section 16.04. It is hereby determined to be for a public purpose and in the public interest of the Haines Borough to place a question on the October 7, 2014 regular Haines Borough General Election ballot that would amend the Haines Borough Charter, to delete the requirement to hold a runoff election if no candidate receives at least 40 percent of the votes cast as follows:

NOTE: STRIKETHROUGH ITEMS ARE DELETED

Charter Section 16.04 Election Procedures

All borough elections shall be nonpartisan. The assembly by ordinance shall establish procedures for regular and special borough elections, including provisions for absentee voting.

~~If no candidate receives more than 40 percent of the votes, the seat will be filled by the winner of a runoff election between the two candidates receiving the most votes.~~

In case of a tie vote for borough office, the assembly shall determine the successful candidate by lot.

Section 4. The Borough shall submit the following proposition to the qualified voters of the Haines Borough at the October 7, 2014 Haines Borough General Election:

PROPOSITION No. 1

AMEND CHARTER 16.04 TO DELETE REQUIREMENT FOR A RUNOFF ELECTION WHEN
NO CANDIDATE RECEIVES FORTY PERCENT OF VOTES CAST

Shall Section 16.04 of the Haines Borough Charter be amended to remove the requirement for a runoff election if no candidate receives 40% of the votes cast, as follows?

Charter Section 16.04 Election Procedures

All borough elections shall be nonpartisan. The assembly by ordinance shall establish procedures for regular and special borough elections, including provisions for absentee voting.

~~If no candidate receives more than 40 percent of the votes, the seat will be filled by the winner of a runoff election between the two candidates receiving the most votes.~~

In case of a tie vote for borough office, the assembly shall determine the successful candidate by lot.

Section 5. Section 3 of this ordinance shall become effective only if the proposition described in Section 4 is approved by a majority of the qualified voters voting on the proposition at the October 7, 2014 Haines Borough General Election and shall take effect thirty days after certification of the results of the election. The remaining sections of this ordinance shall become effective immediately upon adoption by the Haines Borough Assembly.

ADOPTED BY A DULY CONSTITUTED QUORUM OF THE HAINES BOROUGH ASSEMBLY THIS
____ DAY OF _____, 2014.

Stephanie Scott, Mayor

Attest:

Julie Cozzi, MMC, Borough Clerk

Date Introduced: 07/29/14
Date of First Public Hearing: ___/___/___
Date of Second Public Hearing: ___/___/___

Memorandum

Haines Borough
Office of the Mayor
103 Third Avenue S.
Haines, Alaska 99827
sscott@haines.ak.us

May 14, 2014

To: Haines Borough Assembly

Cc: Dave Sosa, Borough Manager
Julie Cozzi, Clerk
Jila Stuart, Finance Director

From: Stephanie Scott, Mayor, Haines Borough

Subject: FY15 Local Legislative Priorities – updated as a result of May 13, 2014
Assembly meeting

The Haines Borough Assembly met as a Committee of the Whole May 6 to develop local legislative priorities for FY15. The Assembly agreed that the list is fluid; is not yet prioritized, and will be re-visited to formalize and adopt.

During the May 13, 2014, Assembly meeting, Lutak Dock repair was added to the list.

I have emphasized (bold) the items can impact on the FY15 budget, either as an amendment (added expense which could result in an increase in mill rate) prior to adoption, or as an adjustment to allocation of revenue to meet added expense as a budget amendment after adoption.

The “working” list follows:

- Solid Waste management – establish borough wide regulation
- **Sewer Treatment Plant....go beyond design, get structure stabilized**
- **Borough’s participation in utility extension**
- Retirement of 40% requirement for election of Assembly and Mayor in Charter and code
- Modification of requirements to provide for water/sewer hookup
- Modification of notification for zoning changes and conditional use permits to capture more of the neighborhood (present requirement is to notify property owners within 200 feet of activity)
- Resolution of water delivery measurement perceived inequity: residential meter vs. flat rate

- **Provide training for Assembly members and staff with respect to engaging state legislators and agencies to address local issues**
- Provide oversight for septic system owners to prevent contamination of ground water and wells
- **Examine pros and cons of engaging a professional lobbyist to represent the Haines Borough in Juneau**
- Examine our regulations and practices with the goal of achieving a “business friendly” reputation
- **Redesign the Capital Improvement Fund to distinguish between CIP and operating expense that is maintenance**
- **Lutak Dock repair**



**Haines Borough
Assembly Agenda Bill**

Agenda Bill No.: 14-489
Assembly Meeting Date: 7/29/14

Business Item Description:	Attachments:
Subject: Amend Borough Code to remove requirement for 40% of the vote (pursuant to voter ratification of Ord 14-07-385)	1. Ordinance 14-07-385
Originator: Borough Clerk	
Originating Department: Administration	
Date Submitted: 7/14/14	

Full Title/Motion:
Motion: Introduce Ordinance 14-07-385 and set a first public hearing for 8/12/14.

Administrative Recommendation:

Fiscal Impact:

Expenditure Required	Amount Budgeted	Appropriation Required
\$ n/a	\$	\$

Comprehensive Plan Consistency Review:

Comp Plan Policy Nos.:	Consistent: <input type="checkbox"/> Yes <input type="checkbox"/> No
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Summary Statement:

The assembly met as a Committee of the Whole on 5/6/14 and developed local legislative priorities for FY15. One of the priorities is "retirement" of the charter and code requirement for a candidate to have at least 40% of votes cast in order to be elected to office. That change first requires a charter amendment that involves voter approval. That part is being handled with Ordinance 14-07-384 (see Agenda Bill 14-488) that would put the question on the 10/7/14 ballot.

An ordinance to amend code does not require voter approval, so Ordinance 14-07-385 is being introduced separately. If adopted, this ordinance will only become effective if the charter is amended.

Referral:

Sent to:	Date:
Recommendation:	Meeting Date:
Refer to:	

Assembly Action:

Workshop Date(s):	Public Hearing Date(s):
Meeting Date(s): 7/29/14	Tabled to Date:

An ordinance of the Haines Borough to amend Borough Code Section 11.48.50 to provide that candidates receiving the greatest number of votes cast shall be declared the winners of an election even if the greatest number of votes cast is less than 40% of the total votes cast and to eliminate the requirement for a runoff election.

BE IT ENACTED BY THE HAINES BOROUGH ASSEMBLY:

Section 1. Classification. This ordinance is of a general and permanent nature and the adopted amendment shall become a part of the Haines Borough Charter.

Section 2. Severability. If any provision of this ordinance or any application thereof to any person or circumstance is held to be invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

Section 3. Amendment of Code Section 11.48.050. Section 11.48.050 of the Haines Borough Code is amended, as follows:

NOTE: **Bolded/UNDERLINED** ITEMS ARE TO BE ADDED
STRIKETHROUGH ITEMS ARE DELETED

11.48.050 Votes required to elect —~~Runoff elections~~.

A. Votes Required to Elect. ~~To be elected to office, a candidate must receive at least 40 percent a simple majority of the votes cast for the office, determined by dividing the total number of legal votes cast for the office by the number of vacancies being filled.~~ **The candidate for mayor receiving the most votes shall be elected. The candidates receiving the most votes for borough assembly or school board shall be elected based on the number of votes received starting with the candidate receiving the most votes until all seats to be filled at any election have been filled.**

~~B. Runoff Elections. If in a borough election an office is not filled because candidates received fewer than 40 percent of the votes cast, the borough shall hold a runoff election between the top two unseated candidates on the first Tuesday in November following the canvass and certification as in HBC 11.48.040. There shall be two runoff candidates for each office to be filled. Notice of the runoff election shall be published at least 10 days before the election date. The person(s) receiving the highest number of votes shall be elected following canvass and certification of the election as provided in HBC 11.48.040.~~

Section 4. Effective Date. This ordinance shall become effective only if the proposition described in Ordinance No. 14-07-384 is approved by a majority of the qualified voters voting on the proposition at the October 7, 2014 Haines Borough General Election in which case this ordinance shall take effect thirty days after certification of the results of the 2014 election.

Haines Borough
Ordinance No. 14-07-385
Page 2 of 2

ADOPTED BY A DULY CONSTITUTED QUORUM OF THE HAINES BOROUGH ASSEMBLY THIS
____ DAY OF _____, 2014.

Stephanie Scott, Mayor

Attest:

Julie Cozzi, MMC, Borough Clerk

Date Introduced: 07/29/14
Date of First Public Hearing: ___/___/___
Date of Second Public Hearing: ___/___/___



Haines Borough
Assembly Agenda Bill

Agenda Bill No.: 14-492

Assembly Meeting Date: 7/29/14

Business Item Description:	Attachments:
Subject: FY14 Budget Amendment	1. Ordinance #14-07-386
Originator: Jila Stuart	
Originating Department: Finance	
Date Submitted: July 24, 2014	

Full Title/Motion:
Motion: Introduce Ordinance 14-07-386 and set for a first public hearing on August 12, 2014.

Administrative Recommendation:

Fiscal Impact:

Expenditure Required	Amount Budgeted	Appropriation Required	Projected Impact to Future Operating Budgets
\$0	\$0	\$0	n/a

Comprehensive Plan Consistency Review:

Comp Plan Goals/Objectives: n/a	Consistent: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No n/a
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Summary Statement:

During the 2013 legislative session, House Bill 65 passed providing "on-behalf" funding for Public Employees Retirement System (PERS) employers for the FY14 fiscal year. Through on-behalf funding the State of Alaska provides funding which reduces the PERS rate paid by employers from the actuarially determined rate of 35.68% of gross wages (in FY14) to the "effective rate" of 22%. This Haines Borough budget amendment reflects the anticipated revenue received from the State of Alaska in the form of reduced PERS payments.

Referral:

Referred to:	Referral Date:
Recommendation:	Meeting Date:

Assembly Action:

Meeting Date(s): 7/29/14	Public Hearing Date(s):
	Postponed to Date:

HAINES BOROUGH, ALASKA
ORDINANCE # 14-07-386

AN ORDINANCE OF THE HAINES BOROUGH, PROVIDING FOR THE ADDITION OR AMENDMENT OF SPECIFIC LINE ITEMS TO THE FY14 BUDGET.

BE IT ORDAINED BY THE ASSEMBLY OF THE HAINES BOROUGH, ALASKA:

Section 1. Classification. This ordinance is a non-code ordinance.

Section 2. Effective Date. This ordinance shall become effective immediately upon adoption.

Section 3. Appropriation. This appropriation is hereby authorized as part of the budget for the fiscal year July 1, 2013 through June 30, 2014.

Section 4. Purpose. To provide for the addition or amendment of specific line items to the FY14 budget as follows:

During the 2013 legislative session, House Bill 65 passed providing “on-behalf” funding for Public Employees Retirement System (PERS) employers for the FY14 fiscal year. Through on-behalf funding the State of Alaska provides funding which reduces the PERS rate paid by employers from the actuarially determined rate of 35.68% of gross wages (in FY14) to the “effective rate” of 22%. This Haines Borough budget amendment reflects the anticipated revenue received from the State of Alaska in the form of reduced PERS payments.				
		Current FY14 Budget	Proposed FY14 Budget	Fund Balance Increase / (Decrease)*
01-01-09-4341	State Revenue – Other	\$0	\$313,000	\$313,000
01-01-10-6116	PERS on-behalf – Pd by State	\$0	(\$313,000)	(\$313,000)
			Total	\$0

* A positive amount in this column is favorable. A negative amount is unfavorable.


ADOPTED BY A DULY CONSTITUTED QUORUM OF THE HAINES BOROUGH ASSEMBLY THIS _____ DAY OF _____, 2014.

ATTEST:

Stephanie Scott, Mayor

Julie Cozzi, MMC, Borough Clerk

Date Introduced: 07/29/14
Date of First Public Hearing: ___/___/___
Date of Second Public Hearing: ___/___/___



Haines Borough
Assembly Agenda Bill

Agenda Bill No.: 14-479

Assembly Meeting Date: 7/29/14

Business Item Description:	Attachments:
Subject: Sale of Portion of Lot 8, Primary School Subdivision to Haines Brewing Co.	1. Ordinance 14-07-387 - DRAFT 2. Negotiated Sale Agreement - DRAFT 3. PC Recommendation to Consider the Proposal 4. TIA Yukon Letter of Support
Originator: Borough Manager	
Originating Department: Administration	
Date Submitted: 6/20/14	

Full Title/Motion:

Motion: Introduce Ordinance 14-07-387 and set a first public hearing for 8/12/14.

Administrative Recommendation:

This resolution is recommended by the borough manager.

Fiscal Impact:

Expenditure Required	Amount Budgeted	Appropriation Required	Projected Impact to Future Operating Budgets
\$ 0	\$ 0	\$ 0	Property will be on the Tax Roll

Comprehensive Plan Consistency Review:Comp Plan Goals/Objectives: Objective 3E, p. 107-8
"acceptable incentives to encourage businesses" (see below)Consistent: Yes No**Summary Statement:**

The borough received an application from Haines Brewing Company for purchase of borough-owned real property, specifically a portion of Lot 8, Primary School Subdivision. On 6/12, the planning commission passed a motion recommending this portion be classified for sale as proposed. On 6/24, the assembly passed the following motion: "classify a portion of Lot 8, Primary School Subdivision for sale, as recommended by the planning commission; direct the borough manager to proceed with the process of subdividing the lot; and authorize the manager to dispose of the classified area by the negotiated sale method." The manager has conducted the negotiations, as directed, and took the sales proposal to the Planning Commission as required by borough code. The commission recommends it be considered by the assembly. The manager now brings this forward to the assembly. Please refer to his memo attached to his 7/29/14 manager's report. Note: once the survey is completed, the existing Lot 8 will become two separate lots, and the lot being sold will have its own number to be added to the sale agreement with a new plat #.

Referral:

Referred to: Planning Commission

Referral Date:

Recommendation: Consider the Sales Proposal

Meeting Date: 6/12 and 7/10/14

Assembly Action:

Meeting Date(s): 6/24, 7/29/14

Public Hearing Date(s):

Postponed to Date:

A NON CODE ORDINANCE OF THE HAINES BOROUGH APPROVING THE SALE TO HAINES BREWING COMPANY INC. OF LOT [TBD], PRIMARY SCHOOL SUBDIVISION PLAT NO. 2014-[TBD], HAINES RECORDING DISTRICT, FIRST JUDICIAL DISTRICT, STATE OF ALASKA.

LEGISLATIVE FINDINGS

WHEREAS, Lot [TBD], Primary School Subdivision Plat No. 2014-[TBD], Haines Recording District, First Judicial District, State of Alaska ("the Property") has previously been classified for sale by the Assembly with the advice of the Planning Commission; and

WHEREAS, the Assembly has previously directed the Borough Manager to commence negotiations for the sale of the Property; and

WHEREAS, negotiations have been substantially completed and an agreement on most terms regarding the sale of the Property has been drafted for review and approval by the Assembly and has been reviewed by the Planning Commission;

NOW, THEREFORE, BE IT ENACTED BY THE HAINES BOROUGH ASSEMBLY:

Section 1. Classification. This ordinance is for the specific purpose of approving a sale of Lot [TBD], Primary School Subdivision, Plat No. 2014-[TBD] Haines Recording District, State of Alaska ("the Property") and shall not become a part of the Haines Borough Code.

Section 2. Severability. If any provision of this ordinance or any application thereof to any person or circumstance is held to be invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

Section 3. Effective Date. This ordinance is effective upon adoption.

Section 4. Purpose. This ordinance authorizes the sale of the Property to Haines Brewing Company Inc. upon the terms and conditions of a negotiated purchase and sale agreement.

Section 5. Authority. This ordinance is adopted under the authority granted the Assembly by HBC 14.20.010, HBC 14.20.020 and HBC 14.20.100 to approve the disposal of real property by negotiation.

Section 6. Authorization and Approval. The Borough Manager is hereby authorized to complete the process of sale of the Property upon the terms and conditions set forth in the Agreement for Sale and Purchase of Real Estate attached hereto.

ADOPTED BY A DULY CONSTITUTED QUORUM OF THE HAINES BOROUGH ASSEMBLY THIS _____ DAY OF _____, 2014.

ATTEST:

Stephanie Scott, Mayor

Julie Cozzi, MMC, Borough Clerk

Date Introduced: 07/29/14
Date of First Public Hearing: ___/___/___
Date of Second Public Hearing: ___/___/___

AGREEMENT FOR SALE AND PURCHASE OF REAL ESTATE

For good and valuable consideration the receipt whereof is hereby acknowledged, the Haines Borough, an Alaska municipal corporation (“**Haines**” or “**Borough**” or “**Seller**”) and Wheeler & Kitayama, LLC, (“**Buyer**”), an Alaskan company, hereby agree as follows:

1. Property to Be Sold.

(a) Seller hereby agrees to sell to Buyer and Buyer hereby agrees to purchase from Seller, subject to the terms and conditions set forth herein, the following-described real property and improvements:

Lot X, Primary School Subdivision, Plat No. 2014-XX, Haines Recording District, First Judicial District, State of Alaska.

A 20,000 square feet area containing approximately 0.459 acres (the “**Property**”).

(b) At the Closing, Seller shall convey to Buyer all of the Property by Limited Warranty Deed in the form attached as Exhibit A subject to the following:

(i) Rights-of-way and easements of record acquired by any person or entity, public or private, including, but not limited to, public rights-of-way.

(ii) All restrictions, regulations, requirements, laws, ordinances, resolutions and orders of all boards, bureaus, commissions, departments and bodies of any municipal, state or federal authority.

(iii) Provisions and reservations as made applicable by terms of the U.S. Patent or by law.

(iv) A right for reversion whereby the Property will be reconveyed to Seller if the Improvements required by this Agreement have not been substantially completed within three (3) years of Closing.

(c) Buyer shall execute a Reverter Agreement as set forth in Exhibit B.

2. Price.

Property Purchase Price. Buyer shall pay Seller eighty-six thousand six hundred dollars (\$86,600) (“Purchase Price”). The Purchase Price shall be paid by Buyer at closing in cash, by a bank cashier’s check, or by wire transfer, in readily available funds into escrow with First American Title Company (The “Title Company”) (Attention: _____, 8251 Glacier Highway, Juneau, AK 99801. Within ten (10) days after the Effective Date of this Agreement, Buyer shall deposit with the Title Company the sum of eight thousand six hundred and sixty dollars (\$8,660) to be held as a nonrefundable earnest

money payment (Earnest Money). At Closing, this earnest money shall be disbursed to Seller and credited to the Buyer.

3. Title Insurance.

(a) Seller, at Buyer's cost, shall provide to Buyer within fourteen (14) days of mutual execution of this Agreement a Preliminary Commitment to Issue Title Insurance for the Property. In the event that Buyer gives notice of a valid Material Title Defect within seven (7) days of receipt of said Preliminary Commitment, this Agreement shall terminate without further obligation on the part of either party. "Material Title Defect" shall include any matter affecting title which a reasonable person would consider to be a serious defect.

(b) Nothing in this Agreement shall be construed to require Seller to expend funds to eliminate or clear any matter affecting title.

(c) Buyer may, at Buyer's sole option and expense, purchase Buyer's title insurance. Likewise if Seller wishes to purchase a Title Insurance policy for itself, it may do so at its own expense.

4. Conditions Precedent to Closing. The following matters shall be completed prior to or coincident with Closing or waived in writing by the parties ("Conditions Precedents to Closing"):

(a) At BUYER's expense, as required by HBC 14.20.100(D), a survey must be completed and a new plat created that subdivides the existing Lot 8 into two new lots and establishes a legal description for the parcel being purchased; and

(b) Seller and Buyer have complied with their respective obligations as set forth in Sections 5 and 6.

5. Seller's Obligations. Provided that (i) all Conditions Precedent to Closing set forth in Section 4 have been satisfied, (ii) this Agreement has not been cancelled, and (iii) Buyer has delivered (or will deliver) all items required to be delivered, then Seller shall deposit with Title Company at or before the Closing the following:

(a) The original Deed, duly executed by Seller, substantially in the form attached as Exhibit A;

(b) An original Reverter Agreement, duly executed by Seller, substantially in the form attached as Exhibit B; and

(c) Documents reasonably required by the Title Company such as an executed settlement statement or evidence of Seller's authority.

6. Buyer's Obligations. Provided that (i) all Conditions Precedent to Closing set forth in

Section 4 have been satisfied, (ii) this Agreement has not been cancelled, and (iii) Seller has delivered (or will deliver) all items required to be delivered, then Buyer shall deposit with Title Company prior to the Closing date:

- (a) The Purchase Price in cash or by wire transfer.
- (b) An original Reverter Agreement, duly executed by Buyer, substantially in the form attached as Exhibit B; and
- (c) Documents reasonably required by the Title Company such as an executed settlement statement or evidence of Buyer's authority.

7. Closing.

(a) The closing ("Closing") shall be held and delivery of all items to be made at the Closing under the terms of this Agreement shall be made at the offices of First American Title Company at 8251 Glacier Highway, Juneau, AK 99801. The delivery of all sums due Seller pursuant to Section 2 above and the recording of documents by Title Company shall occur not later than _____ (the "Closing Date"). All funds and documents shall be deemed simultaneously delivered on and as of the Closing Date. The Closing may occur on such earlier date as Buyer and Seller may agree but the Closing Date may not be extended without the written approval of both Seller and Buyer.

(b) In the event the Closing does not occur on or before the Closing Date, Title Company shall, unless it is notified in writing by both parties to the contrary within five (5) days after such date, return to the depositor thereof all items which may have been deposited with Title Company hereunder except the Earnest Money which shall be disbursed to Seller. Any such return shall not, however, relieve either party hereto of any liability it may have for its wrongful failure to close.

(c) Possession. Possession of the Property shall be delivered to Buyer on the Closing Date.

8. Remedies for Breach. Seller and Buyer shall have all remedies available by law and equity for any breach of this Agreement, including, but not limited to, the remedy of specific performance and the exercise of Seller's right of reverter.

9. Construction of Improvements. On or before three (3) years from the date of Closing, Buyer shall complete the construction of a Brewery on the Property ("the Improvements"). Upon completion of the Improvements Buyer shall promptly give Seller an appropriate notice of completion.

10. Hazardous Substances. Buyer acknowledges and agrees that there may be spilled, leaked or discharged Hazardous Substances (as defined below), or other substances on or in the groundwater or surface water of the Property which may contain oil, petroleum, hydrocarbons,

asbestos, solvents, paints, thinners or other materials, substances or waste which are, or may, become regulated as hazardous or toxic under federal, state or local law, and the release or discharge of which is, or may become, prohibited by law, that Buyer has knowingly and voluntarily determined that its obligations under this Agreement need not be contingent upon the results of any assessment or inspection of the Property for any such substances by an engineer, contractor or other consultant.

11. As Is, Where Is Sale, Release and Indemnification.

Seller sells and buyer buys the property hereunder “as is” and “where is.” Seller shall have no liability or responsibility to buyer whatsoever for any violations of any law, regulation, building code, ordinance or other legal requirement of any kind whatsoever applicable to the property as may be discovered at any time, including but not limited to material (or non-material) hazardous substances contamination, violations of building or safety codes, latent defects, deterioration or problems or liabilities of any kind. Buyer hereby releases seller from and shall indemnify, defend and hold seller harmless from any and all liabilities, costs, expenses or claims of any kind whatsoever arising out of or in connection with the property, including but not limited to any that may date to or originate during the time of ownership of all or any of the property by seller or its predecessors in interest; **provided, however**, that buyer does not hereby release seller from and shall have no responsibility to indemnify, defend and hold seller harmless from liabilities, costs, expenses or claims,

If any; (1) for damages to land other than the property sold hereunder as shall directly and entirely result from and be caused by acts of seller, its agents or employees which were performed on land other than the property sold hereunder. The intent of the parties is that buyer has had already and shall continue to have a thorough opportunity to inspect and study the property before the closing, but that once such closing occurs, seller walks away from the property so conveyed and from any and all legal liability or responsibility of any kind whatsoever arising out of or in connection with such property, except as expressly stated herein, and that seller shall have, after the closing, no further responsibility or liability to buyer or any other person or entity for any claims of any kind that may arise as to or in connection with the property.

Neither seller, nor any of its officers, directors, employees, agents, attorneys, or representatives have previously nor does under this agreement make any representations or warranties, and none of the persons or entities described above shall in any way be liable for or with respect to:

- (A) The condition of the property or the suitability of the property for buyer’s intended use, or for any use whatsoever;
- (B) The presence or existence of any hazardous substances, asbestos, oil or other petroleum product contamination or any other material as to which the discharge, leakage, spillage or presence on the property would be regulated by applicable state or federal law. Buyer purchases the property “as is” and “where is” and

assumes the responsibility and risks of all defects and conditions of the property including the prior contamination (and releases and agrees to indemnify, defend and hold seller harmless from the same), including but not limited to environmental hazards and deterioration from age, weather, disuse, limited maintenance or other causes. Buyer acknowledges that buyer has had the opportunity and will have the opportunity to inspect the property and will be relying entirely thereon.

Buyer acknowledges that notwithstanding any prior or contemporaneous oral or written representations, statements, documents or understandings, this agreement constitutes the entire understanding of the parties with respect to the subject matter hereof, and supersedes all such prior or contemporaneous oral or written representations, statements, documents or written agreement and shall remain unaffected by any representations, statements or understandings subsequent to the date hereof which shall not be represented by a mutually executed amendment to this agreement.

The terms of this Paragraph shall survive the Closing.

12. Notices. All notices, waivers, elections, approvals and demands required or permitted to be given hereunder shall be in writing and shall be personally delivered, mailed by certified mail with postage prepaid, or transmitted by facsimile to the location for each party designated herein. Either party may, by proper notice to the other, designate a different address for the giving of notice. Any notice shall be effective when personally delivered, or, if mailed as provided herein, five (5) business days after deposit, postage pre-paid in the U.S. Mails, or in the case of facsimile notice when sent, if answer back or confirmation received:

SELLER:

Haines Borough
P.O. Box 1201
Haines, AK 99827

BUYER:

Wheeler & Kitayama, LLC
P.O. Box 911
Haines, AK 99827

With a courtesy copy to:

Brooks W. Chandler
Boyd, Chandler & Falconer, LLP 911 W. 8th Avenue, Suite 302
Anchorage, AK 99501 Facsimile No. 907/274-3698

13. Costs. Each party shall bear its own costs and attorney fees, except as expressly provided herein. Unless specifically made the responsibility of one party elsewhere in the Agreement, all other fees and closing costs in connection with the Closing shall be paid by Buyer as required by HBC 14.20.060(A). Any and all prepaid expenses or income of any kind and all taxes and assessments shall be prorated.

14. Brokers. Seller represents to Buyer that Seller has not dealt with any broker or real estate agent regarding the Property of this transaction. Buyer represents to Seller that Buyer has not dealt Agreement for Sale and Purchase of Real Estate

with any broker or real estate agent regarding the Property of this transaction. Each party shall be responsible to defend, indemnify and hold harmless the other as to any claim made by any person or entity for a commission claimed due as a consequence of the indemnifying party's acts or conduct.

15. Access to Premises. At all times during normal business hours prior to the Closing, Buyer shall, upon reasonable notice to Seller, have reasonable access to the Property for the purpose of making such inspections, examinations, tests or surveys of the Property as Buyer may reasonably desire.

16. Survival of Terms and Waiver. The terms and condition of this Agreement shall survive the Closing and are expressly intended to bind the parties notwithstanding any statute of limitations.

17. Merger. This Agreement expresses and embodies all understandings and agreements between the parties and is entered into after full investigation, neither party relying upon any statements or representation not embodied in this Agreement.

18. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto, their successors and assigns, and may be modified only by a written instrument signed by both parties.

19. Relationship of the Parties. This Agreement shall not authorize either party to act as an agent for the other.

20. Law and Venue. This Agreement shall not be governed by and construed under the laws of the State of Alaska. Venue of any dispute shall be the Superior Court of the State of Alaska in Juneau, Alaska.

21. No Waiver. The failure of any party to insist upon the strict performance of any provision of this Agreement, or the failure to exercise any right, power or remedy available hereunder, shall not constitute a waiver by said party of any such provision as to any other breach or subsequent breach of the same or any other provision.

22. Warranties of Authority. Each party and each natural person who executes this Agreement on behalf of such party acknowledges, warrants, and represents for the benefit of the other party to this Agreement: (a) that such person is duly authorized and empowered to execute this Agreement on behalf of such party; (b) that such party has been duly formed and organized and is in good standing; (c) that all necessary and appropriate resolutions and actions by such party's managers or ordinances by such party's governing body authorizing such party to enter into, execute, and perform this Agreement and the transactions contemplated by this Agreement have been obtained; and (d) that all steps have been taken and acts performed that are conditions precedent to making this Agreement valid, enforceable, and binding against such party in accordance with its terms and conditions.

23. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original and which, taken together, shall constitute a single Agreement. This Agreement shall not become binding upon any Party unless and until at least one counterpart of this Agreement shall have been fully executed by each party hereto. Facsimile signatures shall be valid so long as an original signature shall be promptly delivered to the other party.

DATED: _____

SELLER:

HAINES BOROUGH

By: _____
David Sosa

Its: Borough Manager

DATED: _____

BUYER:

WHEELER & KITAYAMA, LLC

By: _____
Paul Wheeler

Jeanne Kitayama

Its: Principals

STATE OF ALASKA)
)
ss. FIRST JUDICIAL DISTRICT)

The foregoing instrument was acknowledge before me this _____ day of _____, 2014, by David Sosa, Borough Manager of the Haines Borough, a municipal corporation, on behalf of the municipality.

NOTARY PUBLIC FOR ALASKA
My Commission Expires: _____

STATE OF ALASKA)
) ss.
FIRST JUDICIAL DISTRICT)

The foregoing instrument was acknowledge before me this _____ day of _____, 2014, by Paul Wheeler and Jeanne Kitayama, the principals of Wheeler and Kitayama, LLC, an Alaskan limited liability company.

NOTARY PUBLIC FOR WASHINGTON
My Commission Expires: _____

LIMITED WARRANTY DEED

The Grantor, the Haines Borough of P. O. Box 1209, Haines, AK 99827, for valuable consideration, conveys and warrants to Haines Brewing Company, Inc., of P.O. Box 911, Haines, AK 99827, all interests which it has in that certain real property in the Haines Recording District, First Judicial District, State of Alaska (“the Property”), described as follows:

Lot x, Primary School Subdivision, Plat No. 2014-xx.

Subject to:

1. Rights-of-way and easements of record acquired by any person or entity, public or private, including but not limited to public rights-of-way.
2. All restrictions, regulations, requirements, laws, ordinances, resolutions and orders of all boards, bureaus, commissions, departments and bodies of any municipal, state or federal authority.
3. Provisions and reservations as contained in the U.S. Patent or made applicable by law, including, but not limited to, rights or interests under the public trust doctrine.
4. The express condition that title to the property conveyed herein shall revert to the Grantor without necessity of reentry should Grantee fail to substantially complete construction of Improvements to the Property as described in the Agreement for Sale and Purchase of the Property by xxx x, 2017.

DATED this _____ day of _____, 2014.

HAINES BOROUGH

By: _____
David B. Sosa
Its: Borough Manager

STATE OF ALASKA)
FIRST JUDICIAL DISTRICT) ss.
)

The foregoing instrument was acknowledged before me this _____ day of _____, 2014, by David B. Sosa, the Borough Manager of the Haines Borough, on behalf of the Borough.

NOTARY PUBLIC FOR ALASKA
My Commission Expires: _____

RECORD IN HAINES RECORDING DISTRICT

AFTER RECORDING, RETURN TO:

Brooks W. Chandler
Boyd, Chandler & Falconer
911 W. 8th Ave., Suite 302
Anchorage, AK 99501

REVERTER AGREEMENT

This REVERTER AGREEMENT is dated as of this ____ day of _____, 2014, by and between the Haines Borough, having and address of P.O. Box 1209, Haines, AK 99827 (“Seller”), and Haines Brewing Company, Inc., having an address of P.O. Box 911, Haines, AK 99827 (“Buyer”).

RECITALS

- A. The Seller has conveyed to the Buyer that certain real estate described on Exhibit “A” (the “Property”) pursuant to a Deed of even date herewith between the Seller and Buyer.
- B. Pursuant to paragraph nine (9) of that certain Agreement for Sale and Purchase of the Property, the Buyer has agreed to construct certain Improvements on the Property (the “Improvements”).
- C. The Deed provides that if the Buyer does not construct the Improvements then the Property shall revert to the Seller.

NOW THEREFORE, in consideration of the transfer of the Property to the Buyer and other consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

- 1. Buyer agrees at its sole cost and expense to complete the construction of the Improvements by no later than _____, 2017 (the “Completion Date”).
- 2. In the event the Improvements are not completed by the Completion Date, the Property shall revert to and thereafter become fee simple real estate owned by the Seller. Upon the request of the Seller, the Grantor will provide a general warranty deed to the Property in form and substance acceptable to the Seller evidencing the reconveyance of the Property.
- 3. During the construction of the Improvements, Buyer will not place any additional liens or encumbrances on the Property except as consented to by the Seller. In that regard, the Seller agrees not to unreasonably withhold its consent to any construction loan financed

with a commercial bank or similar lender intended to fund the construction and development of the Improvements. In such an event, the Seller will enter into a Subordination Agreement in form and satisfactory to such lender. Upon completion of the Improvements satisfactory to the Seller, the Seller agrees to issue a letter acknowledging the release of the reverter rights described herein.

4. This Agreement shall be binding upon the parties hereto and shall be binding upon and inure to the benefit of their successors and assigns.
5. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Alaska.
6. This Agreement may only be modified or amended by a written agreement signed by authorized representatives of the parties hereto.

WITNESS the following signatures as of the year and date first above written.

DATED: _____

SELLER:

HAINES BOROUGH

By: _____

David Sosa

Its: Borough Manager

DATED: _____

BUYER:

HAINES BREWING COMPANY, INC.

By: _____

Paul Wheeler and Jeanne Kitayama

Its: Principals

STATE OF ALASKA)
) ss.
FIRST JUDICIAL DISTRICT)

The foregoing instrument was acknowledge before me this _____ day of _____, 2014, by David Sosa, Borough Manager of the Haines Borough, a municipal corporation, on behalf of the municipality.

NOTARY PUBLIC FOR ALASKA
My Commission Expires: _____

STATE OF ALASKA)
) ss.
FIRST JUDICIAL DISTRICT)

The foregoing instrument was acknowledge before me this _____ day of _____, 2014, by Paul Wheeler and Jeanne Kitayama, the Principals of Haines Brewing Company, Inc., an Alaskan limited liability company, on behalf of the company.

NOTARY PUBLIC FOR WASHINGTON
My Commission Expires: _____



Haines Borough
**PLANNING COMMISSION
RECORD OF DECISION**

DATE: July 10, 2014

TO: Borough Assembly

FROM: The Haines Planning Commission

PLANNING COMMISSION DECISION:

Motion: Lende moved to “recommend the Assembly further consider the proposal from Haines Brewing Company.” The motion passed unanimously.

RATIONALE: Portion of Lot 8, Primary School Subdivision is currently zoned Commercial. The Haines Brewing Company is defined as “light industrial commercial” in the code. They propose to locate an apartment in the building, so the use of the property is classified as “Combination, residential/industrial/commercial (R/I/C)” which allows “Use-By-Right” in a commercial zone, as per HBC 18.70.040.

SUBMITTED BY _____ (signature)

A handwritten signature in black ink, appearing to read "Rob Goldberg", is written over a horizontal line.

Rob Goldberg
Planning Commission Chair



Haines Brewing Company
PO Box 911
Haines, Alaska
99827

July 15, 2014

RE: Land acquisition for a new brewery location

Dear Paul Wheeler and Jeanne Kitayama,

On behalf of the Tourism Industry Association of the Yukon, I am writing to express our support your intention to relocate the Haines Brewery to a larger, and more central, location. The success of your craft brewery in its current location presents a great opportunity to grow into a space that may better accommodate more local, regional, and international visitors.

As the success of Yukon Brewing in the Yukon can attest, craft breweries are a popular tourist attraction. As an integral part of the Golden Circle Route, Haines makes an important contribution to regional tourism, and the Haines Brewing Company is a great experience that many travelers associate with Haines. We support the development of attractions that build on the tourism product currently available in the region, and feel that a new location for the Haines Brewing Company will serve to benefit Haines as well as nearby communities in Alaska and the Yukon. The Haines Brewing Company is a popular stop for Yukoners and international visitors alike. We believe that a new and improved set-up for your brewery would be very well received by visitors from the Yukon.

Sincerely;

A handwritten signature in black ink, appearing to read "Blake Rogers", is written over a light blue circular stamp.

Blake Rogers
Executive Director



**Haines Borough
Assembly Agenda Bill**

Agenda Bill No.: 14-491
Assembly Meeting Date: 7/29/14

Business Item Description:	Attachments:
Subject: October 7, 2014 Election Ballot Questions re. General Obligation Bonds for School Major Maint. Projects	1. Ordinance 14-07-388 2. Estimated annual debt service requirements (For further information, refer to the separate memo attached to the 7/29/14 manager's report.)
Originator: Assembly / School Board	
Originating Department:	
Date Submitted: 3/4/14 during Joint Meeting	

Full Title/Motion:
Motion: Introduce Ordinance 14-07-388 and set a first public hearing for 8/12/14.

Administrative Recommendation:

Fiscal Impact:

Expenditure Required	Amount Budgeted	Appropriation Required
\$ TBD - see manager's memo	\$	\$ TBD

Comprehensive Plan Consistency Review:

Comp Plan Policy Nos.: 4.5.4, Page 52; Objective 2B; Objective 17A(3)	Consistent: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
--	---

Summary Statement:
This ordinance was prepared by the borough's bond counsel. He advised a single ordinance could place multiple propositions on the ballot, and this draft includes a ballot question for four different school major maintenance projects. This is a result of applications made to the Alaska Department of Education (DEED) for school project funding reimbursement. The assembly and school board met jointly 3/4/14 and authorized staff to go forward with that application process, and the result is that most of the projects have been approved for 70% reimbursement. The project for pool mechanical, locker room, and ADA compliance upgrades has not as yet qualified. Staff requests an assembly discussion of whether to add a fifth ballot proposition that would authorize a bond for the pool upgrades knowing that project is currently ineligible for the 70% reimbursement. As with any ordinance, the assembly may choose to amend it. For more information, please refer to the manager's memo attached to his 7/29/14 report.

Referral:

Sent to:	Date:
Recommendation:	Meeting Date:
Refer to:	

Assembly Action:

Workshop Date(s):	Public Hearing Date(s):
Meeting Date(s): 7/29/14	Tabled to Date:

AN ORDINANCE OF THE HAINES BOROUGH AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS IN AN AGGREGATE AMOUNT NOT TO EXCEED \$4,722,079 TO FINANCE UP TO FOUR PROJECTS FOR 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 7, 2014, OF FOUR PROPOSITIONS, ONE FOR EACH OF THE CAPITAL IMPROVEMENT PROJECTS AUTHORIZED BY THIS ORDINANCE; APPROPRIATING FUNDS FOR THOSE PROJECTS THAT ARE APPROVED BY THE VOTERS; AND PROVIDING FOR AN EFFECTIVE DATE.

RECITALS:

WHEREAS, the Haines Borough School District (the "District") has advised the Assembly of Haines Borough (the "Borough") that it is in the best interests of the District and its students and staff, and residents of the Borough to provide for the capital improvements to facilities of the District described below (the "Projects"); and

WHEREAS, the Assembly wishes to authorize the issuance of not to exceed \$4,722,079 aggregate principal amount of general obligation bonds (the "Bonds") to pay costs of the Projects, subject to voter approval of the separate projects, as provided in this ordinance; and

WHEREAS, the District has applied for approval from the Alaska Department of Education and Early Development ("DEED") for reimbursement by the State of Alaska of a portion of the debt service on the Bonds in accordance with AS 14.11.100(a), subject to annual appropriation by the state legislature; and

WHEREAS, the constitution and laws of the State of Alaska require bond authorizations to be submitted to the qualified voters of the Borough for their ratification or rejection, and the Assembly wishes to submit four questions relating to the four capital improvement projects to the voters at the regular October 7, 2014 election;

NOW, THEREFORE, BE IT ENACTED BY THE HAINES BOROUGH ASSEMBLY:

Section 1. Classification. This ordinance is not of a permanent and general nature and will not be codified.

Section 2. Findings; Capital Improvements. It is hereby found and declared that the public welfare and benefit require that the Borough undertake the following capital improvements to school facilities in the Borough (the "Projects"), each subject to a separate ballot proposition as provided in Section 4 of this ordinance:

- Haines High School: mechanical system upgrades to the Vocational Education Building.
- Haines High School: replacement of air handling unit.
- Haines High School: renovation of locker rooms and pool lobby area including ADA compliance upgrades.
- Haines High School: roof replacement.

The cost of all necessary design, architectural, engineering, legal, and other consulting services, inspection and testing, administrative and relocation expenses, on- and off-site

utilities, purchases of furnishings and equipment, and other costs incurred in connection with the Projects shall be deemed a part of the costs of the Projects. The Borough shall determine the specifications for the Projects.

The Borough will determine how to apply available funds to accomplish as nearly as may be each of the Projects approved by the voters. If proceeds of the Bonds, plus other funds of the Borough legally available for this purpose, are insufficient to accomplish all of the improvements comprising the voter-approved Projects, the Borough will use the available funds, including Bond proceeds, to pay the cost of those improvements included among the voter-approved Projects that the Borough deems most necessary and in the best interest of the Borough, subject to DEED approval, if required.

If the Assembly determines that it has become impracticable to accomplish one or more of the voter-approved Projects, or portion thereof, because of changed conditions, incompatible development or costs substantially in excess of those estimated, the Borough will not be required to undertake those improvements and may apply the Bond proceeds or any portion thereof to the payment of principal of or interest on the Bonds or to other capital improvements to District facilities, subject to DEED approval, if required.

If proceeds of the Bonds remain unexpended and unencumbered for costs of the voter-approved Project, those remaining Bond proceeds may be applied to pay the cost of other capital improvements to District facilities or to pay debt service on the Bonds, as the Assembly shall determine, subject to DEED approval, if required.

Section 3. Authorization of Bonds. To provide all or a portion of the funds necessary to pay or reimburse costs of the Projects and costs of issuance of the Bonds, the Borough will issue and sell its general obligation bonds in an aggregate principal amount not to exceed \$4,722,079 (the "Bonds"). The Bonds will be issued in an amount not exceeding the amount approved by the voters of the Borough and not exceeding the amount permitted by the constitution and laws of the State of Alaska. The balance, if any, of the cost of the voter-approved Projects will be paid out of any other legally available funds, including grants. The Bond proceeds may only be used for capital purposes.

The Bonds will be general obligations of the Borough, and the full faith, credit and resources of the Borough will be pledged to the payment of principal of and interest on the Bonds. Unless paid from other sources, both principal of and interest on the Bonds will be payable out of annual tax levies to be made upon all taxable property within the Borough without limitation as to rate or amount and in excess of any constitutional, statutory or local tax limitation.

The Bonds will be issued and sold in the amounts and at the time or times as the Assembly finds necessary and advisable and as permitted by law. The Bonds may be issued in one or more series and mature in the amounts and at the times within a maximum term of 20 years from the date of issuance of the Bonds, all as authorized by the Assembly and as provided by law. The date, form, interest rates, terms, redemption provisions, maturities, covenants and manner of sale of the Bonds shall be as hereafter provided by ordinance or resolution of the Assembly. After voter approval of one or more of the Bond propositions set forth in Section 4 of this ordinance, and in anticipation of the issuance of the Bonds, the Borough may issue short-term obligations as authorized by the laws of the State of Alaska.

Section 4. Bond Election. Four proposition to approve this ordinance and approve issuing Bonds to pay costs of the four Projects identified in Section 1 of this ordinance will be submitted to the qualified voters of the Borough for their ratification or rejection at the regular election to be held in the Borough on October 7, 2014. The bond propositions will be in substantially the following form:

HAINES BOROUGH

PROPOSITION 2

\$1,711,027 GENERAL OBLIGATION BONDS
VOC-ED BUILDING MECHANICAL UPGRADES

Shall Haines Borough incur debt and issue general obligation bonds in a principal amount not to exceed \$1,711,027, maturing within a maximum of 20 years, to pay costs of mechanical system upgrades to the vocational education building at Haines High School, as further described in Ordinance No. 14-07-388, and shall Ordinance No. 14-07-388 of the Borough authorizing the issuance of bonds for this purpose be approved?

BONDS Yes

BONDS No

* * * * *

HAINES BOROUGH

PROPOSITION 3

\$412,367 GENERAL OBLIGATION BONDS
HAINES HIGH SCHOOL AIR HANDLING UNIT REPLACEMENT

Shall Haines Borough incur debt and issue general obligation bonds in a principal amount not to exceed \$412,367, maturing within a maximum of 20 years, to pay costs of replacing the air handling unit at Haines High School, as further described in Ordinance No. 14-07-388, and shall Ordinance No. 14-07-388 of the Borough authorizing the issuance of bonds for this purpose be approved?

BONDS Yes

BONDS No

* * * * *

HAINES BOROUGH

PROPOSITION 4

\$783,938 GENERAL OBLIGATION BONDS
HAINES HIGH SCHOOL LOCKER ROOM RENOVATIONS

Shall Haines Borough incur debt and issue general obligation bonds in a principal amount not to exceed \$783,938, maturing within a maximum of 20 years, to pay costs of renovating the locker rooms and pool lobby area at Haines High School, including ADA compliance upgrades, as further described in Ordinance No. 14-07-388, and shall Ordinance No. 14-07-388

of the Borough authorizing the issuance of bonds for this purpose be approved?

BONDS Yes

BONDS No

* * * * *

HAINES BOROUGH

PROPOSITION 5

\$1,814,747 GENERAL OBLIGATION BONDS
HAINES HIGH SCHOOL ROOF REPLACEMENT

Shall Haines Borough incur debt and issue general obligation bonds in a principal amount not to exceed \$1,814,747, maturing within a maximum of 20 years, to pay costs of replacing the roof at Haines High School, as further described in Ordinance No. 14-07-388, and shall Ordinance No. 14-07-388 of the Borough authorizing the issuance of bonds for this purpose be approved?

BONDS Yes

BONDS No

* * * * *

Section 5. Cooperation with DEED. Borough staff is directed to take all actions necessary and desirable to cooperate with the District to seek DEED approval for reimbursement of debt service on the voter-approved Bonds, subject to annual appropriation by the state legislature.

Section 6. Appropriation and Reimbursement. If the issuance of Bonds for one or more of the Projects is ratified at the election authorized by this ordinance, the Borough anticipates that prior to the issuance of those Bonds it may be necessary or desirable to pay certain costs of the voter-approved Projects. Therefore, the Assembly hereby appropriates from the Borough's general fund so much of the total authorization as may be necessary to carry out the provisions of this ordinance, including paying costs of the voter-approved Projects and costs of issuance of the voter-approved Bonds. The amounts expended under the appropriation made in this section will be reimbursed to the general fund from the proceeds of sale of those Bonds or short-term obligations authorized by this ordinance. The Assembly hereby declares that this section constitutes a declaration of the Borough's intent to reimburse the general fund from proceeds of tax-exempt bonds within the meaning of Treasury Regulation § 1.150-2, as promulgated under the Internal Revenue Code of 1986, as amended.

Section 7. Notice. The Borough Clerk will provide for notice, publication and posting of this ordinance and the four ballot propositions authorized by this ordinance in accordance with the provisions of the Borough Code of Ordinances and state law. The Borough Clerk will also provide for the publication of notice of the total existing bond indebtedness of the Borough, in form and content as prescribed by AS 29.47.190(b), at least once a week for three

consecutive weeks, the first such notice to be published at least 20 days before the date of the election.

Section 8. Severability. If any one or more of the provisions of this ordinance is for any reason held to be invalid, such invalidity shall not affect or invalidate any other provision of this ordinance or the Bonds, but this ordinance and the voter-approved Bonds shall be construed and enforced as if such invalid provision had not been contained herein; provided, however, that any provision that is for any reason held by reason of its extent to be invalid shall be deemed to be in effect to the extent permitted by law.

Section 9. Effective Date. This ordinance will become effective from and after the date of its passage, as provided in Section 2.12.030(B) of the Haines Borough Code of Ordinances.

ADOPTED BY A DULY CONSTITUTED QUORUM OF THE HAINES BOROUGH ASSEMBLY THIS _____ DAY OF _____, 2014.

ATTEST:

Stephanie Scott, Mayor

Julie Cozzi, MMC, Borough Clerk

Date Introduced: 07/22/14
Date of First Public Hearing: ___/___/___
Date of Second Public Hearing: ___/___/___

Estimated annual debt service requirements in dollars and mills if school projects are funding using DEED bond debt reimbursement program

July 16, 2014 version

In 2005 the Haines Borough bonded to construct the new K-12 facility which incorporated the existing high school building. The Borough qualified with the State of AK DEED for 70% debt reimbursement. The Borough uses roughly 1.33 mills of property tax levy each year to generate the needed local 30% payment on the debt. That debt will be paid off in 2025. If the Borough were to bond to finance current school capital needs the the impact would be as follows depending on which projects took place:

	Estimated Project Cost	Estimated Annual Debt Pmt*	DEED 60% Debt Reimbursement		DEED 70% Debt Reimbursement	
			Annual Amt Needed with 60% reimbursement	Mills** needed at 2014 Values	Annual Amt Needed with 70% reimbursement	Mills needed at 2014 Values
School Projects						
High School and Vocation Ed. Buildings						
High School Air Handling Unit	\$ 412,367	\$ 30,510	\$ 12,204	0.04	\$ 9,153	0.03
Vocational Ed. Mechanical Upgrades	1,711,027	126,596	50,639	0.17	37,979	0.13
High School Locker Room	783,938	58,002	23,201	0.08	17,401	0.06
High School Roof Repairs	1,814,747	134,270	53,708	0.18	40,281	0.14
	<u>4,722,079</u>	<u>349,379</u>	<u>139,752</u>	<u>0.48</u>	<u>104,814</u>	<u>0.36</u>
Non School Projects						
Swimming Pool Facility Repairs & Upgrades	975,000	72,139	n/a	0.25	n/a	0.25

* Assumes a 20-year repayment schedule at 4.2% interest rate

**0.36 mills represents \$36 per year in taxes on a \$100,000 home.



Haines Borough
Assembly Agenda Bill

Agenda Bill No.: 14-490Assembly Meeting Date: 7/29/14

Business Item Description:	Attachments:
Subject: Opposition to the November Ballot Measure 2 (Legalization of Marijuana)	1. Resolution 14-07-580 - DRAFT 2. State Attorney General's opinion and summary of the initiative
Originator: Assembly Member Dave Berry	
Originating Department:	
Date Submitted: 7/22/14	

Full Title/Motion:
Motion: Schedule Resolution 14-07-580 for a public hearing on 8/26/14.

Administrative Recommendation:

Fiscal Impact:			
Expenditure Required	Amount Budgeted	Appropriation Required	Projected Impact to Future Operating Budgets
\$ n/a	\$	\$	n/a

Comprehensive Plan Consistency Review:	
Comp Plan Goals/Objectives:	Consistent: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Summary Statement:
Ballot Measure 2 is the result of a citizen's initiative petition, and it will appear on the November 4 state election ballot. Assembly Member Dave Berry requested this resolution be on this agenda for consideration by the assembly. It opposes Ballot Measure 2. Mayor Scott recommends a public hearing be held prior to this being voted on. She requests it be scheduled for 8/26/14. Mr. Berry concurs.

Referral:	
Referred to:	Referral Date:
Recommendation:	Meeting Date:

Assembly Action:	
Meeting Date(s): 7/29/14	Public Hearing Date(s):
	Postponed to Date:

A Resolution of the Haines Borough Assembly opposing the passage of the initiative to legalize recreational marijuana in Alaska and urging voters to defeat ballot measure 2.

WHEREAS, ballot measure 2 would legalize, commercialize, and industrialize recreational marijuana in the State of Alaska for adults 21 and over; and

WHEREAS, the use and delivery of marijuana is still a violation of federal law under the Controlled Substances Act; and

WHEREAS, the use of marijuana has been found to have negative physical, mental, behavioral and social health consequences and is associated with diseases of the heart, brain, lungs, and vascular system; and

WHEREAS, the legalization of marijuana is predicted to produce significant net economic costs to the State of Alaska; and

WHEREAS, ballot measure 2 is an extreme measure that would legalize not only marijuana but also potent and dangerous chemical concentrates and drug-infused edibles that appeal to children; and

WHEREAS, ballot measure 2 will have negative impacts on our workforce, workforce safety, and employability; and

WHEREAS, ballot measure 2 is a harmful measure that ignores the severe problems that have been created by the legalization of recreational marijuana in other states, including public health hazards such as hash oil explosions, increases in driving under the influence, and deaths from edibles; and

WHEREAS, the commercialization and industrialization of marijuana will involve Outside interests seeking to aggressively market to and profit on Alaskans, including young people; and

WHEREAS, this initiative would result in extensive advertising of marijuana, marijuana concentrates (such as Butane Hash Oil, Shatter, and Earwax) and marijuana accessories in Anchorage; and

WHEREAS, our community supports the health and well-being of our adults and children,

NOW, THEREFORE, BE IT RESOLVED that the Haines Borough Assembly opposes the passage of the initiative to legalize recreational marijuana in Alaska and urges voters to defeat ballot measure 2.

Adopted by a duly-constituted quorum of the Haines Borough Assembly on this ____ day of _____, 2014.

Stephanie Scott, Mayor

Attest:

Julie Cozzi, MMC, Borough Clerk

June 11, 2013

The Honorable Mead Treadwell
Lieutenant Governor
P.O. Box 110015
Juneau, Alaska 99811-0015

Re: *Review of Initiative Application for "An Act to Tax and Regulate the Production, Sale, and Use of Marijuana."*
A.G. File No. JU2013200236

Dear Lieutenant Governor Treadwell:

You asked us to review an application for an initiative entitled "An Act to tax and regulate the production, sale, and use of marijuana" ("13PSUM"). Because the application complies with the specific constitutional and statutory provisions governing the initiative process, we recommend that you certify the application.

I. Summary of the proposed bill.

A. Brief summary and background.

The bill proposed by this initiative would provide for the taxation and regulation of the production, sale, and use of marijuana. The bill provides for the personal use of marijuana and imposes various restrictions on personal cultivation, public use, and the operation of marijuana-related facilities. The bill also allows the legislature to create a Marijuana Control Board in the Department of Commerce, Community, and Economic Development, provides for the adoption of regulations, and allows for local control of the manufacture and sale of marijuana (but probably not the local prohibition of personal use). Finally, the bill imposes an excise tax on the sale or transfer of marijuana, and provides for the enforcement and administration of that tax.

B. Sectional summary.

The bill proposed by this initiative is eight pages long, single-spaced, and consists of three sections. The first section adds a new chapter to Title 17 of the Alaska Statutes consisting of 14 new statutes. The second section adds a new chapter to Title 43 of the

Alaska Statutes consisting of three new statutes. The third section adds a severability clause to the bill.

Section 1. This section would add a new chapter, AS 17.38, Regulation of Marijuana, to the Alaska Statutes consisting of fourteen provisions:

- **AS 17.38.010. Purpose and findings.** This provision states the Act's intent to legalize marijuana for use by persons age 21 or older, in the interest of allowing law enforcement to focus on violent and property crimes and to promote individual freedom. The statute would provide that the production and sale of marijuana should be regulated such that legitimate businesses—not criminal actors—sell marijuana and that such sale should be conducted in a manner that protects consumers and promotes public health and safety. Finally, the statute would provide that the Act does not intend to abrogate or diminish rights or responsibilities under the Alaska Constitution or federal law.
- **AS 17.38.020. Personal use of marijuana.** This statute would legalize the personal use of marijuana for persons age 21 or older. Specifically, the statute would permit: the possession, use, display, purchase, or transportation of marijuana accessories or one ounce or less of marijuana; the possession, growth, processing, or transporting of no more than six marijuana plants (with three or fewer being mature, flowering plants) and possession of the marijuana on the premises where the plants were grown; the transfer of one ounce or less of marijuana and up to six immature marijuana plants to a person who is 21 years of age or older without remuneration; the consumption of marijuana in a non-public location; and assisting another person who is 21 years of age or older in any of the above activities.
- **AS 17.38.030. Restrictions on personal cultivation, penalty.** This statute would impose certain restrictions on the personal cultivation of marijuana. Specifically, marijuana plants must be: cultivated in a location where the plants are not subject to naked-eye public view; reasonably secure from unauthorized access; cultivated only on property lawfully possessed by the cultivator or with the property owner's consent. The statute would impose a maximum \$750 fine for a violation.

- **AS 17.38.040. Public consumption banned, penalty.** This statute would ban the public consumption of marijuana and would permit a maximum \$100 fine for a violation.
- **AS 17.38.050. False identification, penalty.** This statute would prohibit a person under 21 years of age from presenting false identification to purchase or attempt to purchase marijuana or marijuana accessories, or access a marijuana establishment. The statute would provide for a \$400 maximum fine for a violation.
- **AS 17.38.060. Marijuana accessories authorized.** This statute would legalize the manufacture, possession, purchase, distribution, and sale of marijuana accessories by and to persons age 21 years of age or older.
- **AS 17.38.070. Lawful operation of marijuana-related facilities.** This statute would legalize certain activities conducted by a validly registered retail marijuana store, marijuana cultivation facility, marijuana product manufacturing facility, marijuana testing facility, or any such establishment's authorized owner, agent, or employee, as long as that person is 21 years of age or older. Generally, the statute would provide that such an establishment may purchase, possess, display, store, transport, deliver, transfer, receive, harvest, process, or package marijuana and marijuana products subject to certain restrictions. The statute would provide that such an establishment may be penalized for violations of the Act or duly adopted rules of the Alcoholic Beverage Control (ABC) Board or local governments pursuant to the Act. Finally, the statute would provide that the provisions of AS 17.30.020 (Controlled Substances) do not apply to marijuana establishments.
- **AS 17.38.080. Marijuana Control Board.** This statute would permit the legislature to create a Marijuana Control Board in the Department of Commerce, Community, and Economic Development to assume the duties of the ABC Board under AS 17.38.
- **AS 17.38.090. Rulemaking.** This statute would require the ABC Board to adopt regulations to implement AS 17.38 no later than nine months after the Act's effective date. Generally, such regulations must include regulations governing marijuana establishments and cover such topics as: procedures subject to the Administrative Procedure Act to apply for, receive, and revoke the registration of a marijuana establishment; a

schedule of registration fees; qualifications for registration; security requirements and requirements to prevent the sale of marijuana to persons under 21 years of age; labeling requirements, advertising and display restrictions, and health and safety standards for marijuana and marijuana products; and civil penalties for failure to comply with the regulations. This statute would provide that the ABC board shall not require a consumer to present any personal information other than a government-issued identification to prove age at a retail marijuana store, and that such a store shall not be required to acquire personal information about consumers.

- **AS 17.38.100. Marijuana establishment registrations.** This statute would govern the application process for registering a marijuana establishment. The statute would vest this duty primarily in the ABC Board, acting in conjunction with local governments as applicable. The statute would impose various timeframes for the processing of such applications. The statute would provide that each registration must specify where the establishment would operate, and that books and records of such establishments would be subject to the ABC Board's inspection.
- **AS 17.38.110. Local control.** Generally, this statute would allow a local government to: prohibit the operation of a marijuana cultivation, manufacturing, testing, or retail facility through the enactment of an ordinance or through voter initiative; enact ordinances to govern the time, place, and manner of marijuana establishment operations; designate a local regulatory authority to process applications to register a marijuana establishment and create procedures surrounding this application process subject to the Administrative Procedure Act.
- **AS 17.38.120. Employers, driving, minors and control of property.** This statute provides that the Act is not intended to: require any employer to permit or accommodate the use, possession, transfer, display, transportation, sale, or growth of marijuana in the workplace; allow driving under the influence of marijuana or supersede related laws; permit the transfer of marijuana with or without remuneration to a person under age 21; or prohibit a person, employer, or any other entity who occupies, owns or controls private property from prohibiting or controlling the use, display, transfer, distribution, sale, or growth of marijuana on that property.

- **AS 17.38.130. Impact on medical marijuana law.** This statute would provide that nothing in the Act is intended to limit the privileges or rights of a medical marijuana patient or caregiver under AS 17.37.
- **AS 17.38.900. Definitions.** This statute would define fourteen different terms used throughout the Act.

Section 2. This section adds a new chapter, AS 43.61, Excise Tax on Marijuana, to the Alaska Statutes, consisting of three provisions:

- **AS 43.61.010. Marijuana tax.** This statute would impose a \$50 per ounce (or proportionate part) excise tax on the sale or transfer of marijuana from a marijuana cultivation facility to a retail marijuana store or marijuana product manufacturing facility. The marijuana cultivation facility would pay the tax. The Department of Revenue could exempt certain parts of the marijuana plant from the tax or could establish a lower rate for certain parts of the plant.
- **AS 43.61.020. Monthly statement and payments.** This statute would require each marijuana cultivation facility to send monthly tax statements and payments to the Department of Revenue based on the amount of marijuana sold or transferred to retail marijuana stores and marijuana product manufacturing facilities during the preceding month.
- **AS 43.61.030. Administration and enforcement of tax.** This statute would subject a marijuana cultivation facility to the civil penalties under AS 43.05.220 for delinquent payments under the Act and allow for the revocation of a delinquent facility's registration pursuant to regulations adopted under the Act.

Section 3. This section is a standard severability clause providing that if any portion of the Act is found invalid, the remainder will not be affected.

II. Analysis.

Under AS 15.45.070, the lieutenant governor must review an application for a proposed initiative and within sixty calendar days of receipt either "certify it or notify the initiative committee of the grounds for denial." The application for the 13PSUM initiative was filed on April 16, 2013. The 60th calendar day after the filing date is June 15, 2013. Under AS 15.45.080, certification shall only be denied if: "(1) the

proposed bill to be initiated is not confined to one subject or is otherwise not in the required form; (2) the application is not substantially in the required form; or (3) there is an insufficient number of qualified sponsors.”

A. Form of the proposed bill.

In evaluating an initiative application, you must determine whether the application is in the “proper form.”¹ Specifically, you must decide whether the application complies with “the legal procedures for placing an initiative on the ballot, and whether the initiative contains statutorily or constitutionally prohibited subjects which should not reach the ballot.”²

The form of a proposed initiative bill is prescribed by AS 15.45.040, which requires four things: (1) the bill be confined to one subject; (2) the subject be expressed in the title; (3) the enacting clause state: “Be it enacted by the People of the State of Alaska”; and (4) the bill not include prohibited subjects. The prohibited subjects are the dedication of revenues, the making or repealing of appropriations, the creation of courts, defining the jurisdiction of courts or prescribing their rules, or enacting local or special legislation.³

This initiative bill meets the first three requirements. It is confined to one subject—the production, taxation, sale, and use of marijuana. The subject is expressed in the title, “An act to tax and regulate the production, sale, and use of marijuana.” And the required enacting clause is present.

With respect to the final requirement, in determining whether an initiative bill contains a prohibited subject, the Alaska Supreme Court has adopted a “deferential attitude toward initiatives,”⁴ and has consistently recognized that the constitutional and statutory provisions pertaining to the use of the initiative should be liberally construed in

¹ Alaska Const. art. XI, § 2.

² *McAlpine v. Univ. of Alaska*, 762 P.2d 81, 87 n.7 (Alaska 1988).

³ AS 15.45.010; *see* Alaska Const. art. XI, § 7 (also prohibiting dedication of revenue, the creation of courts, defining the jurisdiction of courts or prescribing their rules).

⁴ *Yute Air Alaska, Inc. v. McAlpine*, 698 P.2d 1173, 1181 (Alaska 1985).

favor of allowing an initiative to reach the ballot.⁵ Indeed, the court has “sought to preserve the people’s right to be heard through the initiative process wherever possible.”⁶ Analyzing the bill with these principles in mind, we conclude that the initiative bill contains no prohibited subject and satisfies the fourth requirement relating to the form of an initiative.

1. Does 13PSUM Contain a Prohibited Subject?

As noted above, an initiative may not be proposed to dedicate revenue, make or repeal appropriations, create courts, define the jurisdiction of courts or prescribe their rules, or enact local or special legislation.⁷ Proposed initiative 13PSUM does not create a court, define the jurisdiction of a court or prescribe a court rule. The bill applies statewide and therefore is not a local or special act. Nor does the bill dedicate revenue or make or repeal an appropriation.⁸ Accordingly, it contains no prohibited subject.

⁵ *McAlpine*, 762 P.2d at 91; *Yute Air*, 698 P.2d at 1181.

⁶ *Pebble Ltd. P’ship ex rel. Pebble Mines Corp. v. Parnell*, 215 P.3d 1064, 1076 (Alaska 2009).

⁷ AS 15.45.010; Alaska Const. art. XI, § 7.

⁸ The Alaska Supreme Court has approved the imposition and distribution of taxes through ballot initiative. *See, e.g., North West Cruiseship Ass’n of Alaska, Inc. v. State, Office of Lieutenant Governor, Div. of Elections*, 145 P.3d 573 (Alaska 2006) (initiative imposing certain taxes and other requirements on cruise ships allowed on 2006 statewide primary election ballot); *see also City of Fairbanks v. Fairbanks Convention and Visitors Bureau*, 818 P.2d 1153 (Alaska 1991) (placing on the ballot an initiative reallocating hotel bed tax revenues). Further, neither the creation of a Marijuana Control Board nor the imposition of duties on the ABC Board makes an appropriation, because courts have held that laws that “merely create new government programs or liabilities do not constitute appropriations.” *McAlpine*, 762 P.2d at 90. The creation of the Marijuana Control Board is committed to the legislature’s discretion. The Alaska Supreme Court has held that an initiative would make an appropriation where it would “designate the use of state assets in a manner that is executable, mandatory, and reasonably definite with no further legislative action.” *Id.* at 91. Nothing in 13PSUM meets that definition.

2. Does 13PSUM Raise Any Additional Constitutional Concerns?

Initiative 13PSUM includes a statement of purpose and findings, providing that the bill is not intended to diminish the constitutional right to privacy under *Ravin v. State*,⁹ nor “require any individual or entity to engage in any conduct that violates federal law, or exempt any individual or entity from any requirement of federal law, or pose any obstacle to federal enforcement of federal law.” We briefly address *Ravin* and relevant federal drug control laws in light of these statements.

In 1975, the Alaska Supreme Court held in *Ravin v. State* that the right to privacy under the Alaska Constitution permits an adult to use and possess small amounts of marijuana in the home. Accordingly, *Ravin* sets Alaska’s minimum constitutional standard for such activity. Because 13PSUM expands rather than restricts the personal use of marijuana, we believe the bill is facially consistent with *Ravin*.

The interplay between restrictive federal drug control laws and permissive state laws that allow the medical or personal use of marijuana raises complex, often highly academic questions of federalism, pre-emption, and enforcement.¹⁰ The federal Controlled Substances Act (CSA) strictly prohibits the manufacture, distribution, and possession of marijuana, including for medical use.¹¹ But like many other states, Alaska

⁹ 537 P.2d 494 (Alaska 1975).

¹⁰ Under the doctrine of preemption: “[i]f state law purports to authorize something that federal law forbids or to penalize something that federal law gives people an unqualified right to do, then courts would have to choose between applying the federal rule and applying the state rule, and the Supremacy Clause [U.S. Const. Art. VI, Clause 2] requires them to apply the federal rule.” Caleb Nelson, *Preemption*, 86 Va. L. Rev. 225, 261 (2000). However, there are constraints on Congress’s preemption authority, and at least one scholar has closely examined the CSA, medical marijuana, and “the states’ underappreciated power to legalize activity that Congress bans” in that context. See Robert A. Mikos, *On the Limits of Supremacy: Medical Marijuana and the States’ Overlooked Power to Legalize Federal Crime*, 62 Vand. L. Rev. 1421 (2009).

¹¹ 21 U.S.C. § 801; see *United States v. Oakland Cannabis Buyers’ Coop.*, 532 U.S. 483 (2001) (holding that no implied medical necessity exception exists to prohibitions on manufacturing and distribution of marijuana established by the CSA).

already has laws—namely the medical marijuana statutes in AS 17.37¹² and the *Ravin* case—that are in apparent conflict with the CSA.¹³ So to the extent 13PSUM implicates concerns of pre-emption and enforcement, existing Alaska law already presents these issues.

In any event, a court would almost certainly refuse to entertain these types of substantive challenges at the certification stage, both for jurisdictional reasons related to standing and ripeness,¹⁴ and because pre-election judicial review of a ballot measure is limited and circumscribed, extending only to prohibited subject matter and clearly unconstitutional proposals.¹⁵ Indeed, our office has previously advised the certification of ballot measures that attempted to legalize marijuana for personal use.¹⁶

In short, 13PSUM must be construed in favor of constitutionality.¹⁷ In reviewing an initiative application for certification, our role is not to identify all conceivable constitutional vulnerabilities in the proposed bill. To the contrary, the Alaska Supreme Court has consistently held that absent a clear prohibition on the use of the initiative

¹² Alaska’s medical marijuana laws were enacted by ballot measure in 1998 (1998 Ballot Measure No. 8 (97PSDM)); *see also* AS 11.71.060(a) (Misconduct involving a controlled substance in the sixth degree).

¹³ *See Mikos, supra* note 10, at 1427-32.

¹⁴ *See, e.g., State v. ACLU of Alaska*, 204 P.3d 364, 374-75 (Alaska 2009) (refusing to entertain constitutional challenge to a newly amended statute prohibiting the possession and use of marijuana, because the challenge was pre-enforcement and therefore not ripe for review).

¹⁵ *See State v. Trust the People*, 113 P.3d 613, 624 (Alaska 2005) (“pre-election judicial review may extend only to subject matter restrictions that arise from a provision of Alaska law that expressly addresses and restricts Alaska’s constitutionally-established initiative process or to proposals that are clearly unlawful under controlling authority”).

¹⁶ *See* 2001 Inf. Op. Att’y Gen. (Nov. 9; 663-02-0066) (recommending certification of ballot measure 01MRNA, which proposed to decriminalize and regulate marijuana).

¹⁷ *See, e.g., Whitesides v. State, Dep’t of Pub. Safety, Div. of Motor Vehicles*, 20 P.3d 1130, 1139 (Alaska 2001) (where reasonable to do so, court will construe statute to avoid constitutional problems).

process or controlling authority directly on point, an initiative bill must proceed to the ballot.¹⁸

You have the authority to deny certification only if you determine that the measure violates any of the liberally construed constitutional and statutory restrictions on initiatives.¹⁹ As discussed above, we do not believe such violations exist. With respect to other constitutional challenges “grounded in general contentions that the provisions of an initiative are unconstitutional,” you may deny certification only if “controlling authority leaves *no room for argument* about its unconstitutionality.”²⁰ We find no such controlling authority, and so we cannot say that this initiative bill is clearly unconstitutional on its face, or that the people should be denied access to the initiative process on that basis.

B. Form of the application.

The form of an initiative application is prescribed in AS 15.45.030, which provides as follows:

The application must include the

- (1) proposed bill;
- (2) printed name, the signature, the address, and a numerical identifier of not fewer than 100 qualified voters who will serve as sponsors; each signature page must include a statement that the sponsors are

¹⁸ See, e.g., *Trust the People*, 113 P.3d at 624; see also *Alaska Action Ctr., Inc. v. Municipality of Anchorage*, 84 P.3d 989, 992 (Alaska 2004) (“The executive officer may only reject the measure if controlling authority leaves no room for argument about its unconstitutionality. The initiative’s substance must be on the order of a proposal that would mandate local school segregation based on race in violation of *Brown v. Board of Education* before the clerk may reject it on constitutional grounds. And absent controlling authority, the court should not decide this type of challenge until the initiative has been enacted by the voters.”) (internal citations and quotations omitted). (continued)
(continued) The roles of the lieutenant governor and a municipal clerk are analogous in the statewide and municipal initiative certification context, respectively. *Kodiak Island Borough v. Mahoney*, 71 P.3d 896, 898 (Alaska 2003).

¹⁹ *Alaska Action Ctr.*, 84 P.3d at 992.

²⁰ *Id.* (internal citations and quotations omitted) (emphasis added).

qualified voters who signed the application with the proposed bill attached; and

- (3) designation of an initiative committee consisting of three of the sponsors who subscribed to the application and represent all sponsors and subscribers in matters relating to the initiative; the designation must include the name, mailing address, and signature of each committee member.

The application on its face meets the first and third requirements, as well as the latter portion of the second requirement regarding the statement on the signature page. With respect to the first clause of the second requirement, we understand that the Division of Elections has determined that the application contains the signatures and addresses of not fewer than 100 qualified voters.

C. Number of qualified sponsors.

As noted above, we understand that the Division of Elections has determined that the application contains the signatures and addresses of not fewer than 100 qualified voters.

III. Proposed ballot and petition summary.

We prepared a ballot-ready petition title and summary for your consideration. It is our practice to provide you with a title and summary to assist you in compliance with AS 15.45.090(2) and AS 15.45.180. Under AS 15.45.180, the title of an initiative is limited to twenty-five words and the body of the summary is limited to the number of sections in the proposed law multiplied by fifty. "Section" in AS 15.45.180 is defined as "a provision of the proposed law that is distinct from other provisions in purpose or subject matter." Alaska Statute 15.45.180 requires that the ballot proposition "give a true and impartial summary" of an initiative bill, and the Alaska Supreme Court has held that such a summary should provide "an accurate depiction of the scope and substance of the initiative."²¹

Technically this initiative bill has only three "sections," but these three sections create two new chapters of the Alaska Statutes consisting of eighteen new statutory

²¹ *Pebble Ltd.*, 215 P.3d at 1084.

provisions. All of these provisions are distinguishable in purpose, if not subject matter. If the bill were treated as three sections, the summary would be limited to 150 words.

It is not possible to accomplish these mandates by summarizing this initiative bill in 150 or fewer words. Given the extensive statutory changes in multiple chapters, we think the proper approach is to treat these eighteen new statutory provisions as separate sections for purposes of summary preparation. Therefore the maximum number of words for the summary may not exceed 900. We used 523 words in the summary and thirteen words in the title of the following proposed summary, which we submit for your review:²²

**An Act to Tax and Regulate the Production,
Sale, and Use of Marijuana.**

This bill would tax and regulate the production, sale, and use of marijuana in Alaska.

The bill would make the use of marijuana legal for persons 21 years of age or older. The bill would allow a person to possess, use, show, buy, transport, or grow set amounts of marijuana, with the growing subject to certain restrictions. The bill would ban the public use of marijuana. The bill would prohibit a person under 21 years of age from using false identification to buy or try to buy marijuana or marijuana accessories.

The bill would allow validly registered marijuana-related entities and persons 21 years of age or older who own or are employed by these entities to make, possess, buy, distribute, sell, show, store, transport, deliver, transfer, receive, harvest, process, or package marijuana and marijuana products, subject to certain restrictions. Alaska Statute 17.30.020 (Controlled Substances) would not apply to these entities.

The bill would require the Alcoholic Beverage Control (ABC) Board to implement parts of the bill. But the bill would also let the legislature create a Marijuana Control Board to assume these duties. The bill would require the ABC Board to adopt regulations governing marijuana-related entities. The regulations would need to cover certain topics and be subject to certain restrictions. The bill would also create procedures for registering a marijuana-related entity. The procedures would be managed by the ABC board and local governments.

²² At the request of your office, and consistent with past practice, we worked with the sponsors of the initiative in developing this summary.

The bill would allow a local government to prohibit the operation of marijuana-related entities. A local government could do that by enacting an ordinance or through voter initiative. The ordinances could cover the time, place, manner, and registration of a marijuana entity's operations.

The bill would allow a person 21 years of age or older to possess, use, show, buy, or transport marijuana accessories. Marijuana accessories are products individuals use to grow or consume marijuana. The bill would also allow persons 21 years of age or older to make marijuana accessories and to distribute or sell them to persons who are 21 years of age or older.

The bill states that it is not intended to require an employer to allow marijuana use, transportation, possession, sale, growth, or transfer, or prevent an employer from prohibiting these activities. The bill does not intend to supersede laws prohibiting driving under the influence of marijuana. The bill does not intend to prohibit schools, correction facilities, hospitals, or private persons or entities from restricting marijuana on their property. The bill does not intend to limit the state's existing medical marijuana laws.

The bill would impose a \$50 per ounce (or proportionate) excise tax on the sale or transfer of marijuana from a cultivation facility to a retail store or marijuana product manufacturing facility. The marijuana cultivation facility would pay the tax and send monthly tax statements to the Department of Revenue. The Department of Revenue could exempt certain parts of the marijuana plant from the tax. It could also establish a lower tax rate for certain parts of the plant.

The bill defines numerous terms. The bill contains a statement of purpose and findings. The bill would impose civil fines and penalties for violations.

Should this initiative become law?

This summary has a Flesch test score of 39.9. Although this figure falls short of the target readability score of 60 set out in AS 15.80.005, the nature of the bill makes it difficult to provide a summary with a higher readability score. This is likely due to the length and complexity of the bill and the use of long, complicated terms in the bill such as "marijuana cultivation facility" and "marijuana product manufacturing facility." The use of these terms cannot be avoided without compromising the accuracy of the summary. We have otherwise tried to use simple words in the summary.

We note that this office has previously recommended a proposed ballot summary with a Flesch test score of 33.8 for a complicated ballot initiative, and that summary was

upheld verbatim by the Alaska Supreme Court.²³ We therefore believe a court would uphold this summary as well.


IV. Conclusion.

For the foregoing reasons, we find that the proposed bill and application are in the proper form and that the application complies with the constitutional and statutory provisions governing the use of the initiative. We therefore recommend that you certify the initiative application and notify the initiative committee of your decision. You may then begin to prepare petitions in accordance with AS 15.45.090.

Please contact us if we can be of further assistance in this matter.

Sincerely,

MICHAEL C. GERAGHTY
ATTORNEY GENERAL

By: 
Elizabeth M. Bakalar
Assistant Attorney General

²³ See 2007 Op. Att’y Gen. (Oct. 17; 663-07-0179); *Pebble Ltd.*, 215 P.3d at 1082-84.