

Memorandum

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September 20, 2014

To: Haines Borough Assembly

Cc: Dave Sosa, Manager
Julie Cozzi, Clerk

From: Stephanie Scott, Mayor, Haines Borough

RE: Ordinance 14-08-390.

I wrote the following as an exercise to understand Ordinance 14-08-390, especially in light of the many emails I have received expressing concern.

Why are we looking at Haines borough Code Title 5, Chapter 18: Commercial ski tours, commercial ski productions and special ski competition events. ?

There seems to be community consensus (Comprehensive Plan, Tourism Advisory Board, Parks & Recreation Advisory Committee) that winter tourism has room to expand in the Haines Borough. So when the organization called Free Ride World Tour approached the Borough to discuss mounting a heliski competition in the borough this season (Feb. 1-May 3, 2015) it felt "right" to engage.

The Assembly was advised by one of its members that a possible barrier to the event existed. The wording of "Temporary Addition to Approved Commercial Ski Tour Areas" prevented a significant event from taking place in closed areas because an application could not be made except "during a season." The Assembly agreed to take up the problem and authorized the Commerce Committee to do so.

The Commerce Committee came back with an adjustment to the code, which was then introduced on September 9. It will have the first of two required public hearings September 23.

What exactly does Ordinance 14-08-390 do?

Ordinance 14-08-390 proposes 8 changes to three sections of HBC 5.18. The five above the line below pertain to temporary use of out-of-bounds territory for special events as currently allowed by HBC 5.18.080 (G); and the three below the line pertain to special ski competition events more generally.

Ordinance 14-08-390 proposes:

- 1) to eliminate the reference to “season” in the description of the application process for accessing areas not on the map for the purpose of a special ski competition event;
 - 2) to time-limit event if the event is to temporarily access closed areas. (from no time limit specified to a 14 day time limit);
 - 3) to increase the amount of time the Manager has to develop a recommendation for the Assembly (from 7 to 14 days) in the event that a permittee applies to use area not on the map;
 - 4) to specify that an applicant for use of closed areas must apply on a form designed by the Borough;
 - 5) to add the concept of “applicant” to permittee as a category of entities who qualify to apply for an out-of-bounds temporary use permit;
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- 6) to increase the allowable number of special ski competition permits from one to five;
 - 7) to introduce the concept of a “special ski event” and to include that concept along side “special ski competition”;
 - 8) to protect special ski competition events from being delayed due to the shared use policy.

Proposal #1 addresses a problem presented by the use the word “season” with respect to the timeframe within which a permittee can apply to use out of bounds area for a special ski competition event. (HBC 5.18.080 (G) (1)).

The concern is that “season” can be restrictively construed as Feb. 1-May 3, and thus a permittee could only submit a request to use “off the map” areas during that time – basically consigning the level of a special ski competition event to that of a “pick up” competition, due to the lack of planning time.

The only other use of the word “season” with respect to heliskiing in the Borough Code that I can find is:

HBC 5.04.130 D. Skier Day User Fee. Each commercial ski tour operator shall pay an annual nonrefundable fee in an amount equal to \$5.00 per skier

day used. The fee shall be paid no later than two weeks after the season ends for that year. (Emphasis supplied.)

I think this use of the word “season” in 5.04.130 (D) does support the concern that the only time that an application can be made to use areas off the map is Feb.1-May 3, “the” heliski season.

The change proposed facilitates planning time, should a “special ski competition event” permittee wish to petition to use “off map” areas. “Season” is retained only to indicate the expiration of the permit. Otherwise, “when” a permit can be applied for is left open. Depending on the size and planning horizon for an event, it is conceivable that a special ski competition event could be applied for several years in advance of the event itself. As an example of time needed to plan an event, the Alaska Municipal League planned to hold its 2017 Summer Meeting in Haines in 2013 – 4 years out from the event itself.

Proposals 2, 3 and 4 add parameters, now absent, to the nature of the application for a permit to use closed areas for a special ski competition event. I find myself interpreting these proposals as improvements to the existing law.

Proposal #2 proposes a 14-day limit for special ski competition events permitted in the out of bounds area. I believe that this time span was inserted in order to provide a weather window. The proposal could be mis-construed as implicit approval of a 14-day long event. I recommend that if a limit is stipulated, the limit be applied to the number of days over which the event can occur. I have been told that 4 days is an adequate number. Let “occurrence” be understood to be within the season: Feb. 1-May 3.

A misunderstanding of this proposal coupled with Proposal #6 (increasing the number of allowable permits for special ski competition events from one to 5) gives rise to the speculation that the Haines Borough is offering up 70 (5 x 14) days in the closed area to special ski competition events. I don’t think this is the intention; but if it is not, then so state.

Proposals #3 &4 increases the amount of time the Manager has to analyze the benefits and costs to the community. This necessary and eminently supportable in my opinion. The phrase “form designed by the Borough” is inserted to ensure that there is an objective process through which the manager can evaluate applicants. It is a good idea.

Proposal #5 adds the category “applicant” to those who can apply for a special ski competition permit. The addition of “applicant” suggests that a one can seek a special ski competition permit that asks for out-of-bounds territory for the event without being in prior possession of a heliski permit or a special ski competition permit to make an application. It seems to me that successful applicants become permittees.

Proposal #6 increases the number of special permits from 1 to 5 .

Increasing the number of special ski competition event permits does not mean that the events are going to automatically take place in the out-of-bounds area. It means that more than 1 permit is available. It appears that an event in the in-bounds (or approved map) area can be authorized by the administration; no Assembly in put is required.

I have learned that the Haines Borough has not ever authorized a “special ski competition event” permit, so it is difficult to know what it might mean to increase the number from 1 to 5. I understand that these events can increase the number of helicopters in the area, but I think the critical elements are location and duration – not necessarily the number of events. Frankly, not knowing what a “permit” looks like, makes it difficult to evaluate the proposal to increase the number of permits.

Proposal #7 broadens the permit category to include “special ski events.”

If the category “special ski event” is to be included in this section, then the category should be defined. “Special ski competition event” is defined in code:

“Special ski competition event” means a skiing or snowboarding competition that includes daily transportation of the participants by helicopter to and from the site of the competition.

I recommend that we stick with what we have already (probably laboriously) defined; that we retain the language “special ski competition event” and strike “special ski event.”

If “special ski event” is retained, defined, then “special ski event” should be inserted throughout section **5.18.080 Commercial ski tours, commercial ski productions and special ski competition events.**

Proposal #8 excludes the ability of the community to invoke the shared use policy when a special ski competition event is scheduled to use an area.

I believe that this proposal grows out of the concept of a special ski competition event as an event that is not spontaneous; that includes mobilization of people and equipment; of prizes. It doesn’t make sense to dis-locate an event of the size and significance anticipated.

This rationale depends on the Borough setting standards for a “special ski competition event” that will enable the event to be seen as a clear benefit to the community.

At this point, it is anticipated that those standards will be set in “a form designed by the borough.” Could we identify the expected standards in code by amending the definition of a “special ski competition event,” permitted in the out of bounds areas, as an event that is expected to net revenue in fees and sales taxes in excess of

\$xx,xxx.xx? Another idea may be to create a fee structure for activity in the out of bounds area that would be a clear benefit to the community.

The idea here is that there is give and take, balance. Giving up the shared use provision, giving up closed areas, needs to be balanced by a benefit as well defined as possible. A good example might be the difference it made in a sense of community peace and harmony when residents understood that the drilling in the harbor was a) limited in time; and b) saving tens of thousands of dollars for the community as a whole.