

Thom Ely
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Haines Borough Assembly
POB 1209
Haines, AK 99827

April 11, 2015

Dear Assembly, Mayor and Manager,

I am seriously concerned about Ordinance 15-04-405, which limits public participation during our Borough Assembly meetings. Both public comment periods are necessary for input to the Assembly. The timing and order of business of the meetings, means that people can show up early to speak or later to speak. The issue may not come up until later in the agenda and after hearing the deliberations a public comment is warranted.

It is not fair to the public or serves the process to require that they only speak at the start of the meeting. Often the Assembly will deliberate a topic during the meeting that can't be addressed until the end, after the debate has occurred. If the public wants to comment in person to the Assembly as a whole on the topic, they would have to wait two weeks to do so.

There appears to be a recent push from our Government to limit public information and ignore public participation in the decision making process. Public participation in Government is one of the tenets of our democracy. I have attended many Assembly meetings over the past 27 years. I have spoken at the start and also at the end of the meeting.

Sometimes the public comment at the close of the meeting is to thank a member who is stepping down for their service to our community. The Assembly has the opportunity for closing comments. The public should as well, especially after sitting through a meeting.

We are a small town. It's not like at every meeting there are dozens of people who choose to comment to the Assembly. Public participation should be encouraged, not discouraged. Please insure that the public has ample opportunity to participate in our Government and decline to forward this to a first hearing.

Sincerely,

Thom Ely

Date: Monday, April 13, 2015

From: Mike Denker, 203 Union St. / P.O. Box 298, Haines, AK 99827

To: Members of the Haines Borough Assembly

Re: Ordinance 15-04-450 – Removing public comment from the end of assembly meetings.

SUMMARY

Assembly member Mike Case, with the concurrence of Mayor Jan Hill, has proposed an ordinance for introduction to remove the second public comment period at the end of assembly meetings. They argue that this ordinance is needed “to ensure the public is heard without having to sit through items that they would otherwise not be present for.”¹ The authors also seem to imply that having public comment at the end of assembly meetings disrespects the public’s time, and makes meetings inaccessible, inefficient and unproductive.² However, the Charter states that “the public shall have reasonable opportunity to be heard” at assembly meetings.³ Thus, the question here is whether the assembly will be depriving the public of the reasonable opportunity to be heard at assembly meetings by adopting Ordinance 15-04-450.

I argue that the assembly will indeed be depriving the public of the reasonable opportunity to be heard by adopting this ordinance. First, depriving residents of the ability to comment at the end of assembly meetings violates the intent of the Haines Borough Charter. Second, Ordinance 15-04-450 fails to adhere to Haines Borough policy. Finally, the assembly will be dishonoring the history of public discourse in the Haines Borough by depriving residents of the ability to make public comment at the end of assembly meetings.

The justifications put forth in the Summary Statement of this ordinance are flawed. Saving time is no justification for depriving residents of a legitimate form of political power. Additionally, contrary to the arguments presented by the authors of this ordinance, public comment at the end of assembly meetings accommodates accessible, efficient and productive assembly meetings. Therefore, the assembly should vote “**NO**” to introducing Ordinance 15-04-450.

¹ Haines, Alaska, *Borough Assembly Meeting Packet*, Ordinance 15-04-450 Summary Statement, April 14, 2015.

² *Id.*

³ *Haines, Alaska, Borough Charter § 18.03 (A).*

⁴ *Haines, Alaska, Borough Code § 2.10.020 Order of Business.*

⁵ *Haines, Alaska, Borough Charter § 18.03 (A).*

⁶ *Id.*

⁷ *Id.*

I. BACKGROUND

The Haines Borough assembly is required to “establish an agenda format to address the appropriate order of business.”⁴ The Order of Business established by the Assembly provides for two public comment periods.⁵ One public comment period occurs at the beginning of assembly meetings before assembly members take action on matters of local governance⁶. The second comment period occurs at the end of the assembly meetings after assembly members have acted on matters of local governance.⁷ Residents have historically used both comment periods to address their elected officials.

Assembly member Mike Case, with the concurrence of Mayor Jan Hill, has proposed an ordinance for introduction to remove the second public comment period at the end of assembly meetings. In the Summary Statement of the ordinance, the authors argue that this ordinance is needed “to ensure the public is heard without having to sit through items that they would otherwise not be present for.”⁸ They also present the apparent policy of the borough with respect to public meetings: “the borough wants the public to be heard, respects their time, and wants to make sure the meetings are accessible, efficient, productive, and a reasonable length of time for all.”⁹ This ordinance is on the consent agenda for introduction at the regularly scheduled meeting of the assembly on April 14, 2015.

II. ISSUE

QUESTION PRESENTED: Whether the Assembly will be depriving residents of the reasonable opportunity to be heard, as stipulated in Haines Borough Charter § 18.03 (A), by adopting Ordinance 15-04-450.

III. RULE

The Haines Borough Charter provides regulatory guidance for public meetings of the borough. The Charter states the following regarding public meetings:

Haines Borough Charter § 18.03 Public Meetings

“(A) Except as provided for in this charter, all meetings of the assembly, the school board, the planning commission and other boards and commissions shall be held in

⁴ *Haines, Alaska, Borough Code § 2.10.020 Order of Business.*

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Haines, Alaska, Borough Assembly Meeting Packet, Ordinance 15-04-450 Summary Statement, April 14, 2015.*

⁹ *Id.*

public. The assembly by ordinance shall adopt procedures for reasonable public notice of all meetings. *At each such meeting the public shall have reasonable opportunity to be heard.*¹⁰ (Emphasis is the authors)

The Haines Borough also provides policy guidance for communication between citizens and government. The Haines Borough 2025 Comprehensive Plan states the goal of the Haines Borough is to “Ensure communication between the Haines Borough and citizens is clear.”¹¹ Additionally, in the Summary Statement of Ordinance 15-04-450, the authors state the apparent policy of the borough: “the borough want the public to be heard, respects their time, and wants to make sure [assembly] meetings are accessible, efficient, productive, and a reasonable length of time for all.”¹²

IV. ARGUMENT

A. Depriving the public of the reasonable opportunity to be heard at the end of assembly meetings violates the intent of the Haines Borough Charter.

1. The intent of the Haines Borough Charter is to provide all residents, including those arriving late to assembly meetings, the opportunity to be heard.

The Haines Borough Charter states that “the public shall have reasonable opportunity to be heard” at assembly meetings.¹³ An essential question that must be asked here is:

Reasonable opportunity to be heard when?

The intent of Haines Borough Charter § 18.03 (A) is to provide this “reasonable opportunity” at both the beginning of assembly meetings, as well as the end.

For instance, not all residents are able to attend assembly meetings from beginning to end. Some attend the beginning of meetings until an issue they are interested in is addressed. Others may have obligations such as work or family to attend to that interferes with their ability to attend the beginning of meetings. These individuals may only be able to attend the second half of assembly meetings. Therefore, a comment period has been provided at the end of assembly meetings to accommodate the public’s varying schedules.

¹⁰ *Haines, Alaska, Borough Charter § 18.03 (A).*

¹¹ *Haines, Alaska, 2025 Comprehensive Plan / September 2012, Pg. 30.*

¹² *Haines, Alaska, Borough Assembly Meeting Packet, Ordinance 15-04-450 Summary Statement, April 14, 2015.*

¹³ *Haines, Alaska, Borough Charter § 18.03 (A).*

Additionally, public comment at the end of assembly meetings allows the public the opportunity to comment on items that were (or were not) addressed by their elected representatives. This provides the public an additional opportunity to engage the assembly publically and personally on matters of community importance that can be factored in at future meetings.

Now, it could be argued that the public has the ability to email, call, meet in private, or otherwise correspond with their assembly members after assembly meetings to address concerns. However, other essential questions to ask here are:

*Reasonable opportunity to be heard **by whom?***

and,

*Reasonable opportunity to be heard **how?***

The public has a right to address their assembly as a whole face-to-face, and also in a public setting. Additionally, the public has a right to not only be heard by their assembly, but also to be heard by other members of the public who may be in attendance at assembly meetings. This face-to-face opportunity has been provided to allow ALL members of the public, not just those who are in attendance at the beginning of the meeting, the ability to engage their assembly members as a whole in a public, formal setting.

The Haines Borough Charter § 18.03 (A) does not discriminate between those who attend the beginning of meetings versus those who are able to only attend the latter half of meetings. The intent of Section 18.03 (A) is to provide reasonable opportunity to ALL members of the public in attendance. This includes reasonable opportunity to be heard at the end of assembly meetings, not just for those in attendance at the beginning of assembly meetings. It also includes the right to comment at the end of meetings on items that were (or were not) addressed by the assembly. Therefore, it is unreasonable for the assembly to remove the public comment period at the end of assembly meetings.

2. Providing the public with reasonable opportunity to be heard at the end of assembly meetings is essential to responsive self-government as guaranteed in the Haines Borough Charter Preamble and Bill of Rights.

The Haines Borough established the Charter “to form a more responsive government”.¹⁴ Additionally, the Charter was established “to secure maximum control of

¹⁴ *Haines, Alaska, Borough Charter Preamble and Bill of Rights.*

our own local affairs.”¹⁵ The public comment period at the end of assembly meetings is an essential element of these guarantees.

The ability for the public to address their assembly as a whole publically and face-to-face is essential to responsive government. No other form of communication is available for members of the public to be able to address all of their assembly members at one time. And as stated earlier, allowing only those in attendance at the beginning of assembly meeting this right and depriving it to others in attendance for only the second half of meetings is unfair. It deprives those residents in attendance for only the second half of meetings the right for this face-to-face exchange with their assembly.

Additionally, public comment periods are essential to maintaining self-control over local affairs. Residents use public comment periods to express concerns to their elected representatives about matters affecting local governance, budgets, personnel, or facilities and infrastructure management. Public comment is a valid form of communication whereby the public may express these concerns. Depriving some in attendance at assembly meetings the ability to express these concerns face-to-face to their elected officials threatens local self-governance.

B. Depriving the public of the reasonable opportunity to be heard at the end of assembly meetings fails to adhere to Haines Borough policy.

1. Depriving the public of reasonable opportunity to be heard at the end of assembly meeting fails to adhere to a key goal in the Haines Borough 2025 Comprehensive Plan.

The 2025 Comprehensive Plan established a goal for Haines Borough government to “ensure communication between the Haines Borough and citizens is clear.”¹⁶ This policy goal was established through many hours of work by dozens of community members. Thus, this goal acts as a directive to Haines Borough government around which code and policy is formed.

Face-to-face communication is an essential element to ensuring clear, timely communication between citizens and government. For example, Mayor Jan Hill has expressed the importance of face-to-face communication between our local government officials and state legislators during the recent Alaska Municipal League Legislative Conference in Juneau.¹⁷ Additionally, Manager David Sosa has linked timely engagement

¹⁵ *Id.*

¹⁶ *Haines, Alaska, 2025 Comprehensive Plan / September 2012, Pg. 30.*

¹⁷ *Haines, Alaska, Assembly Meeting Minutes, Mayor’s Comments / Report, February 24, 2015.*

such as face-to-face communication and personal contact with state legislators as a justification for hiring a lobbyist.¹⁸

While this face-to-face communication is essential for allowing a member of the public to engagement with their elected representatives on issues, doing so in a public setting is also essential. This leads to public discourse, whereby the entire community becomes engaged in the conversation on issues. Therefore, this public face-to-face engagement is crucial to fostering healthy discourse that results in clear communication between citizens and their government.

Depriving residents not in attendance at the first public comment period the reasonable opportunity to be heard at the end of assembly meetings fails to ensure this clear communication between citizens and their government. There is no substitute to face-to-face communication between a resident and their assembly as a whole for ensuring clear, concise, timely engagement on issues. Thus, retaining public comment at the end of assembly meetings is essential for ensuring the borough's goal of clear communication between citizens and government.

2. Depriving the public of reasonable opportunity to be heard at the end of assembly meetings fails to adhere to the Haines Borough's policy as stated in the Summary Statement of Ordinance 15-04-450.

In the Summary Statement of Ordinance 15-04-450, the authors present justifications for removing public comment at the end of assembly meetings. In doing so, it appears that the borough's policy regarding public comment during assembly meetings is revealed. This policy appears to be the following:

“The borough wants the public to be heard, respects their time, and wants to make sure the meetings are accessible, efficient, productive, and a reasonable length of time.”¹⁹

By providing this statement as justification for the ordinance, the implication is that public comment at the end of assembly meetings disrespects the public's time. It also seems to

¹⁸ Chilkat Valley News, Volume XLV Number 14, Thursday, April 9, 2015, *Sosa: Hire state lobbyist for \$45K*. “One of the things we are seeing is that, particularly during troubled times, it's very important to have a voice that is representing your interests on a regular basis with the legislature,” Sosa said. ‘As a staff, we have been working on that and I know members of the assembly have been working on that, but even the short distance between here and Juneau...If you're not getting the word in a timely manner, and you're not able to engage in a timely manner while someone else can engage in a timely manner, you're at a disadvantage.’”

¹⁹ Haines, Alaska, Ordinance 15-04-450 Summary Statement.

imply that public comment at the end leads to assembly meetings that are inaccessible, inefficient, and unproductive. This implication is flawed.

First, providing public comment at the end of assembly meetings provides residents with scheduling difficulties the opportunity to be heard. This is consistent with meetings that are accessible, efficient, and productive for these members of the public. The argument in the Summary Statement falsely implies the opposite.

Second, providing public comment at the end of assembly meetings provides residents the ability to comment on matters addressed (or not addressed) by their elected representatives. Once again, this is consistent with government that is accessible, efficient, and productive for residents.

Therefore, the authors of Ordinance 15-04-450 offer false implications in the Summary Statement. In fact, by removing public comment from the end of assembly meetings, the assembly will be creating meetings that are inaccessible, inefficient, and unproductive for the public. Thus, removing public comment from the end of assembly meetings fails to adhere to the apparent policy regarding public meetings provided in the Summary Statement of Ordinance 15-04-450.

C. Depriving the public of the reasonable opportunity to be heard at the end of assembly meetings dishonors the history of public discourse during assembly meetings.

The Haines Borough has long offered public comment at both the beginning and end of assembly meetings. This requirement appears to have originated with consolidation of the City of Haines with the Haines Borough in 2002.²⁰ Thus, public comment at both the beginning and end of assembly meetings appears to date back to consolidation and the inception of the home rule Haines Borough.

The assembly will be depriving the residents of the borough of a rich history of public discourse in assembly meetings by adopting Ordinance 15-04-450. History dating back to the inception of this home rule borough shows that members of the public have been provided the opportunity to comment at the end of assembly meetings to address their assembly. This history demonstrates a borough policy for encouraging public engagement in matters of community concern during the entirety of assembly meetings. By adopting Ordinance 15-04-450, the assembly will fail to honor this rich history of public engagement at assembly meetings.

²⁰ There is no indication in Section 18.03 (A) of the Charter that the Order of Business has been amended to include or move the public comment period at the end of assembly meetings. Thus, the author must assume that public comment at the end of assembly meetings originates with the consolidation of the borough and city governments in 2002.

V. CONCLUSION

The Haines Borough Assembly will be depriving the public of reasonable opportunity to be heard as stipulated in Section 18.03 (A) of the Haines Borough Charter by adopting Ordinance 15-04-450. First, depriving residents of the reasonable opportunity to be heard at the end of assembly meetings violates the intent of the Haines Borough Charter. Second, removing public comment from the end of assembly meetings fails to adhere to borough policy regarding public meetings. Finally, the assembly will be dishonoring the history of public discourse in the borough by depriving the public with the ability to comment at the end of assembly meetings.

The members of the Haines Borough Assembly should not remove public comment from the end of assembly meetings. The assembly should vote “**NO**” to introducing Ordinance 15-04-450.

Respectfully submitted.

Mike Denker
203 Union St. / P.O. Box 298
Haines, Alaska 99827
Phone: 907-766-3235

April 13, 2015

Dear Haines Borough Assembly members and Mayor Hill,

As KHNS News Director, I am asking you to please vote down ordinance 15-04-405.

The summary statement says this ordinance is not meant to stifle public comment, but it does exactly that by eliminating an opportunity for public comment at the end of the meeting. I do not understand the reasoning for this ordinance from the summary - it mentioned it will ensure the public is heard without having to sit through items that would otherwise not be present for - which is already the case by having public comment both at the beginning and at the end of the meeting. I also don't understand under what goals or objectives this ordinance would be consistent with under the comprehensive plan, even though the summary statement says it is.

I've personally used the end of meeting comment period twice in the last 12 months, both times to comment on an action taken during that meeting.

Here are the reasons I hope the assembly votes this ordinance down and preferably doesn't even introduce it.

1. It eliminates the opportunity for the public to be heard on actions taken during that evening's meeting. There is no better time than when an issue is fresh in our minds or an action was just taken by the assembly for someone to comment on it.
2. While the ordinance notes there are many other ways for the public to make their opinions and ideas known to assembly members and staff, there is nothing more powerful or empowering for the public than having the opportunity to speak directly to you as a whole body, in the assembly chambers. It provides an opportunity for public statements to be officially recorded with meeting minutes and offers direct public involvement with their government, which is the bedrock of a democratic society.
3. It might seem like a little thing, especially if you consider the amount of time actually used on public comment at the end of meetings, as I have detailed below. But appearances matter and whatever the motivation for doing this, the appearance is that it chips away a little more from the Haines Borough public process. Take into consideration that in the last few years the assembly has also moved to action minutes, using a consent agenda, and already setting time limits on meetings to 9:30 p.m. (unless voted by the assembly to continue.) Each of these seemingly little moves may have been taken in the spirit of efficiency, but in reality and in public perception, they put additional restrictions on the public process.
4. If the intent is to save time for the assembly and the public, then I suggest going back to time limits on public comments. This method was well employed during the last mayor's term. Time limits allow efficient public input without the sense of stifling the actual opportunity to do so. It also does not require staff and assembly time in passing an ordinance - it simply requires the mayor to announce and enforce time limits on comments.

Please do introduce this ordinance. There is no need for it and certainly no need for the assembly to appear that it wants to eliminate opportunities for the public to have the maximum voice and involvement in their government. It might make meetings occasionally a little longer, but it certainly makes your work more transparent, open, inviting and easier to understand for everyone.

Kindly,



Margaret Friedenauer, KHNS News Director

I went through the last year of meeting minutes and discovered how many times someone used the public comment period at the end of the meeting. As I said before, I think this illustrates that the end of meeting comment period is important because while not employed often, it is used and creates very little additional time to meeting length. However, it still allows the opportunity for members of the public who wish to comment on actions taken during that meeting or who may have missed the first public comment period at the beginning of the meeting.

March 24	4
March 10	1 - on meeting action
Feb. 24	1 - on meeting action
Feb 10	2 - on meeting action
Jan 27	0
Jan. 13	1
Dec. 16	1
Nov. 12	0
Oct. 28	0
Oct. 14	1 (thanking assembly members leaving for service)
Sept. 9	0
Aug. 26	0
Aug. 12	0
July 29	1
July 8	0
June 24	1
June 10	1
May 27	0
May 13	0
April 29	0
April 24	0
April 8	1

Stephanie K. Scott
Box 431
Haines, Alaska 99827
sscott@aptalaska.net

April 13, 2015

RE: Introduction of Ordinance 15-04-405, Agenda Item 11-B-1; Agenda Bill #15-558

Dear Mayor Hill and Members of the Haines Borough Assembly,

I am interested in hearing the opinion of the other members of the Assembly regarding Ordinance 15-04-405, so I request that this item be removed from the Consent Agenda and evaluated by the body in public Tuesday evening.

The discussion, that I hope you have, on this ordinance actually highlights exactly how the public “uses” the end-of-meeting comment period. At the meeting’s end, the public has an opportunity to comment on the reasons its elected representatives articulate for their votes; this opportunity actually allows members of the public to have a sort of “conversation” in public with its elected representatives.

Conversations in public with our elected officials are key to a democratic government – especially one that can be said to have a strong flavor of transparency. Urging us to write to you is fine, as long as those written conversations are available to the public. That will not be the case with telephone calls; nor will it be the case with conversation over coffee in the Bamboo Room. Public comment periods in legislative proceedings are not efficient, nor are they meant to be. They are time consuming; but can be stunningly illuminating. I think of what Senator Pete Kelly said to Emily Deach (Skagway Clerk) last year when she offered an apology for the hours the Senators were spending to listen to the concerns of Alaskans. Senator Kelly said, “Please don’t apologize. It is my honor to listen to you; it is my job.”

I have listened to hours of public testimony, here and across the state. Sometimes the message is repeated almost verbatim by each person who stands, but I soon realized that each voice is different; different tone, different inflection, different pace – and that these differences compose the music of our political life. I want to hear it. I hope that you do too and that you retain the second chance that you have in your assembly to do so.

Sincerely,

Stephanie K. Scott

Cc: Dave Sosa, Haines Borough Manager; Julie Cozzi, Haines Borough Clerk