

Haines Borough
Borough Assembly Meeting #486
AGENDA

April 23, 2024 - 6:30pm

Location: In Assembly Chambers and on ZOOM

Thomas Morphet
Mayor

Natalie Dawson
Assembly Member

Gabe Thomas
Assembly Member

Kevin Forster
Assembly Member

Debra Schnabel
Assembly Member

Ben Aultman-Moore
Assembly Member

Craig Loomis
Assembly Member

Annette Kreitzer
Borough Manager

Alekka Fullerton
Borough Clerk

Kiersten Long
Deputy Clerk

Haines Borough ZOOM information (You must download Zoom first)

Webinar ID: 899 6869 0776

Passcode: 048343

- 1. CALL TO ORDER/PLEDGE TO THE FLAG/ROLL CALL**
- 2. 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:

3 - Approve Minutes from 4/09/24 Regular Assembly Meeting

11B1 - Introduction and Scheduling of Public Hearings for Ordinance 24-04-675

11B2 - Introduction and Scheduling of Public Hearings for Ordinance 24-04-676

11B3 - Introduction and Scheduling of Public Hearings for Ordinance 24-04-677

11C1 - Confirmation of William Jensen as Director of Public Facilities

- *3. APPROVAL OF MINUTES** -Approve the 4/09/24 Regular Assembly minutes
- 4. PUBLIC COMMENTS** – [For any topics not scheduled for public hearing. Individual comments are limited to 3 minutes unless another yields 3 minutes to the speaker in advance] *Note: during this section of the agenda, the assembly will listen and take notes. No official action will be taken at this time.*
- 5. ASSEMBLY COMMENTS**
- 6. MAYOR’S REPORT AND COMMENTS** – *Attached.*
- 7. PUBLIC HEARINGS**
 - A. Ordinance 24-03-670**
An Ordinance of the Haines Borough Assembly Amending Haines Borough Code Section 18.40.030 Procedure – Staff decision.
Motion: Adopt Ordinance 24-03-670
 - B. Ordinance 24-04-669**
An Ordinance of the Haines Borough Assembly Amending Haines Borough Code Defining Ore and Requiring Bulk Ore and Ore Concentrate Shipments through the Haines Borough be Containerized.
This ordinance is already scheduled for another public hearing May 14, 2024.
 - C. Ordinance 24-04-671**
An Ordinance of the Haines Borough Assembly Amending Haines Borough Code Section 3.70.040(F) Local Exemptions and Exclusions- Hardship Exemption.
This ordinance is already scheduled for another public hearing May 14, 2024.

7. **PUBLIC HEARINGS** - *Continued*

D. **Ordinance 24-04-672**

An Ordinance of the Haines Borough Assembly Amending Haines Borough Code Section 7.08.050 Historic Dalton Trail Road Maintenance Service Area to Provide for Commercial Fees.

Motion: Vacate second public hearing date of May 14, 2024 and refer the Ordinance to the Commerce Committee for further review.

E. **Ordinance 24-04-673**

An Ordinance of the Haines Borough Assembly Amending Haines Borough Code Section 2.08.060 Meetings of the Assembly to Change Regular Assembly Meeting Time.

This ordinance is already scheduled for another public hearing May 14, 2024.

F. **Ordinance 24-04-674**

An Ordinance of the Haines Borough Assembly Amending Haines Borough Code Section 2.84.010 Personal Leave Accrual and Section 2.84.030 Accumulation Limit.

This ordinance should be amended to include the Personal Leave Accumulation Limit as reflected in the CBA as well. That change was recommended by the Personnel Committee but inadvertently left off the drafting of the Ordinance.

Motion: Amend Ordinance 24-04-674 to include Section 2.84.030 Personal Leave Accumulation Limit and confirm the second public hearing scheduled for May 14, 2024.

8. **STAFF/FACILITY REPORTS**

A. **Borough Manager Report** – *Supplemental Report*

i. Decision on White Paper for Lutak Dock

B. **CFO Report** – 2018-2023 Calendar Year Sales Tax Receipts by Business Activity

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

A. **Assembly Standing Committee Referred Topics**

B. **Planning Commission** – *Approved 3/14/24 Minutes*

C. **Property Tax Assessment Ad Hoc Board** – *Approved 3/6/24 and 4/4/24 Minutes*

i. Updated BOE Procedures (received Thursday, April 18- *needs to be compared with recent code changes*)

D. **Chilkat Center Advisory Board** – *Approved 1/12/24 Minutes*

10. **UNFINISHED BUSINESS** – None

11. **NEW BUSINESS**

A. **Resolutions** (Individual comments are limited to 3 minutes unless another yields 3 minutes to the speaker in advance)

1. **Resolution 24-04-1108**

A Resolution of the Haines Borough Assembly authorizing the Borough Manager to execute a contract to obtain a Supervisory Control & Data Acquisition Water and Sewer Department System (SCADA) from Correct Equipment for a Mission SCADA and to provide associated electrical installation services to support the project for an amount not to exceed \$63,096.40.

Motion: Adopt Resolution 24-04-1108.

11. NEW BUSINESS – Continued

B. Ordinances for Introduction

- *1. Ordinance 24-04-675**
An Ordinance of the Haines Borough, Providing for the Addition or Amendment of Specific Line Items for the FY24 Budget.
This ordinance is being introduced by the Mayor.
Motion: Introduce Ordinance 24-04-675 and set a first public hearing for 5/14/24 and a second public hearing for 5/28/24.
- *2. Ordinance 24-04-676**
An Ordinance of the Haines Borough Assembly Amending Haines Borough Code Section 18.30.040(C) Planning Commission to Change Regular Planning Commission Meeting Date.
This ordinance is being introduced by the Mayor.
Motion: Introduce Ordinance 24-04-676 and set a first public hearing for 5/14/24 and a second public hearing for 5/28/24.
- *3. Ordinance 24-04-677**
An Ordinance of the Haines Borough, Alaska, Providing for the Establishment and Adoption of the Operating Budget, Capital Budget, and Capital Improvement Plan of the Haines Borough for the Period July 1, 2024 through June 30, 2025.
This ordinance is being introduced by the Mayor.
Motion: Introduce Ordinance 24-04-677 and set a first public hearing for 5/14/24 and a second public hearing for 5/28/24.

C. Other New Business

- *1. Confirm Director of Public Facilities Hire**
Per HBC 2.74.035(A)(3), after the Borough Manager hires a Department Head, such appointment is subject to confirmation by the Assembly.
Motion: Confirm the Manager's hire of William (Brad) Jensen as the Director of Public Facilities.
- 2. Request to Release Executive Session Audio from May 26, 2024.**
Assembly Member Kevin Forster has requested this item be placed on the agenda. HBC 2.10.040(E)(3) provides "No portion of the record of an executive session of the borough assembly shall be open for public inspection or subject to discovery in any administrative or judicial proceeding, except upon a super-majority consent of the assembly or by court order."
- 3. Special Election for Advisory Vote regarding Lutak Dock**
The Mayor has requested this item be placed on the agenda.
Motion: Refer proposed special election ballot questions to the GAS Committee for further consideration.
- 4. Board of Equalization Replacement Member (if desired)**
HBC 3.72.110 (changes adopted at the April 9 meeting, still being codified) provides that the Board of Equalization shall be between five and nine members, there are currently seven members appointed to the BOE.

11. NEW BUSINESS

C. Other New Business – Continued

5. **Request to DNR to Extend the Public Comment Deadline on Constantine’s 5-yr Plan.**

The Mayor has requested this item be placed on the agenda. Current deadline for comments is April 24, 2024 at 5:00 pm.

6. **Appeal of Planning Commission Decision – Southeast Road Builders, Conditional Use Permit for Resource Extraction Permit #23-87.**

On 10/23/23, the Haines Borough planning commission approved a conditional use permit (#23-87) for Glacier Construction Inc. dba Southeast Road Builders for a Resource Extraction Permit located at Site A: C-LTR-04-0090/0700/0010, Site B: C-LTR-04-1000/2940/0900/0800 | Waterfront Industrial Zone. On 3/14/24 the Planning Commission vacated the permit. HBC 18.30.060 allows for an appeal to the assembly of a PC decision, and Glacier Construction Inc. dba Southeast Road Builders (SERB) timely filed an appeal. The assembly voted to rehear the PC’s decision regarding the vacation of CUP #23-87 at its last meeting. The appeal hearing is scheduled for this meeting, as required by HBC 18.30.060(A).

*HBC 18.30.060(B) (1) provides that, findings of fact adopted expressly or by necessary implication shall be considered as true if, based upon a review of the whole record, they are supported by substantial evidence. Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. If the record as a whole affords a substantial basis of fact from which the fact in issue may be reasonably inferred, the fact is supported by substantial evidence. **The burden of proof shall be on the appellant to demonstrate the facts and resolution of the issues on appeal by substantial evidence.** The evidence shall be limited to a review of the record, although further argument may be allowed.*

*The evidence considered shall be limited to a review of the record, and **the burden of proof shall be solely on the appellant challenging the commission’s decision.** “The Record” in these appeals is determined to be: all documentary or oral statements and any material objects that were provided to the PC in this matter. The evidence is limited to that same record, although further argument may be allowed. Argument is defined as “reasons given for or against a matter under discussion that is intended to convince or persuade the listener.” The Appellate record consists of written arguments submitted by the appellants. Oral arguments are acceptable during these hearings. As typical for appeal hearings, the appeal will begin with a presentation by the appellant then proceed with any public testimony. Assembly deliberations will follow public testimony.*

Assembly Action Needed: *The assembly hearing an appeal from a PC conditional use decision is acting in a quasi-judicial capacity. Therefore, a supermajority is required, per Charter 5.06(D) for action. Pursuant to HBC 18.30.060(B)(3), the assembly may confirm the commission’s decision, reverse the commission’s decision, change (or add) conditions which the commission placed on approval. The assembly must make its decision at this meeting keeping in mind that “in all decisions the burden of proof shall be on the party challenging the decision of the planning commission.”*

The assembly may deliberate in open session or in executive session. Written findings that formalize the reasons for the decision will be drafted for assembly approval at the next meeting.

11. NEW BUSINESS

C. Other New Business – Continued

7. Appeal of Planning Commission Decision - Southeast Road Builders, Conditional Use Permit for Resource Extraction Permit #23-87B.

On 3/14/24, after vacation of the permit described above, the Haines Borough planning commission considered and denied conditional use permit (#23-87B) for Glacier Construction Inc. dba Southeast Road Builders for a Resource Extraction Permit located at Site B: C-LTR-04-1000/Waterfront Industrial Zone. Glacier Construction Inc. dba Southeast Road Builders (SERB) timely filed an appeal. Please see above for the considerations of HBC 18.30.060(B).

12. CORRESPONDENCE

A. Constantine Letter to the Haines Borough Assembly

13. SET MEETING DATES

A. Schedule a Committee of the Whole meeting to review Borough Attorney applications.

14. PUBLIC COMMENT

15. ANNOUNCEMENTS/ASSEMBLY COMMENTS/DIRECTION TO OFFICERS

16. ADJOURNMENT