

Memorandum

To: Members of the Haines Borough Assembly; Mayor Jan Hill; Acting Manager Julie Cozzi

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

Re: Assembly Agenda Item 11C4 – Interim Manager Appointment

Date: January 7, 2017

The assembly will appoint an interim manager at the upcoming January 10 meeting. In the assembly meeting packet, the clerk's office included charter and code provisions applicable to this decision. *See Assembly packet, Item 11C4, Pg. 82.* I will argue the clerk's office erred by failing to provide the assembly with the qualifications for borough manager as set out in Section 5.03 (A) of the Charter. **Under this section, the assembly is bound to consider professional qualifications as the sole basis for the manager appointment decision.**

The assembly should question the clerk's office why this key charter requirement was not provided in the packet. For good decision-making, the assembly requires ALL pertinent information be included in assembly meeting packets.

QUESTION PRESENTED

Under Section 5.03 (A) of the Haines Charter, "The manager is selected solely on the basis of professional qualifications." Item 11C4 of the January 10, 2017 assembly meeting packet includes charter and code provisions pertinent to the appointment of a borough manager, but fails to include Section 5.03 (A) of the Charter. Did the clerk's office err by failing to provide the assembly with the borough manager qualifications as set out in Section 5.03 (A) of the Charter.

SHORT ANSWER

Yes. The clerk's office erred by failing to provide the qualifications for borough manager as set out in Section 5.03 (A) of the Haines Charter. Section 5.03 (A) is relevant to the decision to appoint an interim manager.

FACTS

The charter is the guiding legal document of the borough. Article V of the Charter outlines the structure of the executive branch. Section 5.03 of Article V outlines the qualifications, appointments and responsibilities of the borough manager.

Section 5.03 (A) of Article V outlines the qualifications for the borough manager. It states the following:

“The assembly shall appoint the manager as chief administrative officer, who serves at the pleasure of the assembly. The manager is selected solely on the basis of professional qualifications.” *Haines Borough Charter, Art. V, Sec. 5.03 (A)*.

This is the sole provision in Charter and Code providing the assembly with guidance on the appointment of a borough manager.

The clerk's office provided the assembly with several attachments pertinent to the borough manager appointment. *See Assembly Packet, Item 11C4, Pg. 81, Assembly Agenda Bill*. Included were “Charter and Borough Code pertaining to manager appointments and whether advertising is required.” *Id.* The sole Charter provision provided was Article II, Section 2.06. *Id., Pg. 82*. This section outlines the structure, appointment, powers and duties of borough officers. *Haines Borough Charter, Art. II, Sec. 2.06 Officers*. No other Charter provisions were provided for the assembly.

ARGUMENT

The clerk's office clearly erred by failing to provide the assembly with the key charter requirement outlining borough manager qualifications. According to Section 5.03 (A) of the Charter, the assembly is bound to consider ONLY professional qualifications as a basis for appointment of a manager. *Haines Borough Charter, Art. V, Sec. 5.03 (A)*.

The provision does not differentiate between the appointment of an “interim” manager versus the appointment of a “permanent” manager. Thus, the provision is clearly pertinent to the appointment decision the assembly is faced with at the January 10 assembly meeting.

Yet, despite the significance of this provision, the clerk’s office failed to provide this section to the assembly. The clerk’s office provided only one Charter provision for the assembly to consider regarding Item 11C4. *See Packet, Pg. 81*. This provision, Charter Sec. 2.06, merely outlines the structure, appointment, powers and duties of borough officers. *Id., see also Haines Borough Charter, Art. II, Sec. 2.06 Officers*. Nowhere in the remainder of the information contained in Item 11C4 were the qualifications for appointment of a borough manager provided. *See Packet, Pg. 81-85*.

Because Section 5.03 (A) is pertinent to the decision to appoint an interim manager, the provision should have been included in the assembly meeting packet. Therefore, the clerk’s office erred by failing to provide this information to the assembly in the assembly meeting packet.

CONCLUSION

The clerk’s office clearly erred by failing to provide the qualifications for borough manager in the assembly meeting packet. Only one Charter provision was provided. This did not include the qualifications for borough manager.

According to Section 5.03 (A) of the Charter, **the assembly is bound to consider professional qualifications as the sole basis for appointment of a borough manager**. This would include appointment of an interim manager.

The assembly should question the clerk why this key Charter provision was not provided in the assembly meeting packet. As the assembly is bound by the Charter to consider ONLY professional qualifications in its decision to appoint a manager, this requirement is highly relevant to the decision. The assembly must ensure that staff provides ALL pertinent information in assembly packets. Having all pertinent information provided is crucial for good decision-making.