
On December 13th, the assembly heard my appeal alleging that the Heli-ski Map Committee chair erred by allowing commercial ski tour permit holders to deliberate and vote on map change proposals. I asserted that, "First, code clearly prohibits a committee member from deliberating and voting on matters in which the member has a substantial financial interest," and, "Second, the permit holders on the committee have a substantial financial interest in all map change proposals."

Prior to the hearing, Assembly Member Jackson made a motion to "direct the manager to create a resolution pursuant to HBC 5.18.080(I) (2) to postpone the map committee and manager's recommendations, to be considered at a future date in summer 2017 when reports from ADF&G are available and a new committee has been established after code has been reviewed." (The word, "reviewed" should be "revised" as per the audio copy of 13 Dec. 16 BA meeting.)

FRIEDENAUER moved to "deny the appeal in recognition of the previous motion [postponing the map recommendations]," and the motion was amended to add 'which made it moot'. The appeal was denied in its entirety.

I argue that the denial of the appeal, primarily on the basis of "mootness" is illogical and inconsistent.

First, in court proceedings, "... a court will not dismiss a case as moot if: ... (2) the issue is deemed a wrong capable of repetition yet evading review; (3) the defendant voluntarily ceases an allegedly illegal practice but is free to resume it at any time;" (2016 Handbook of Section 1983 Litigation, 901[B] at 9-6)

The issue of heli-ski map committee members who have a conflict of interest in map changes voting on change recommendations could be "a wrong capable of repetition."

In addition, the assembly did evade review of the appeal by declaring it moot.

In order to claim mootness the assembly would have to implement both the remedies suggested in the appeal, 1) create a new committee and 2) declare committee recommendations invalid.

Remedy 1: Ron Jackson's motion, provided that, "a new committee would be established after code has been revised" so the first remedy was addressed, to a degree, maybe. There is no guarantee that the assembly will amend code to create a map committee whose members do not have a conflict of interest in changes to the heli-ski map.

Also, there is an ordinance up for introduction at the January 10 assembly meeting that would eliminate the advisory heli-ski map committee entirely. There is no guarantee that this committee will be eliminated.

Remedy 2: Assembly Member Jackson's motion also provided that the committee recommendations will be "postponed" and "considered at a future date in summer 2017...". The motion did not declare the recommendations invalid nor did it direct the manager and assembly to disregard the committee's recommendations.

At tonight's meeting, you have before you, **RESOLUTION No. 17-01-703**. Like the Jackson motion at the Dec. 13 assembly meeting, Resolution 17-01-703 does not make my appeal moot. Instead, it forwards the flawed 2016 map committee and manager recommendations to a future map committee which would convene sometime in the summer of 2017.

In order to make the appeal moot, a possible rewording of ~~Resolution~~ 17-01-703 follows:

NOW, THEREFORE, BE IT RESOLVED that consideration of the 2016 heli-ski map changes requested by two heli-ski companies in 2016 will be postponed until the summer of 2017 when a new committee is convened and the results of the ADF&G report on wildlife habitats is available. The new committee will not include any voting members who have a conflict of interest in actions taken by the committee nor will the committee refer to the recommendations of the 2016 heli-ski map committee and manager.

I ask that the BA reconsider the vote that was taken on my appeal of 13 Dec 16. The Jackson resolution clearly did not render the appeal "moot". I would ask that the BA affirm the appeal. This action could lend credibility to this body by publicly giving support to the idea that process matters and that it is taken seriously by this body.

Thank you.