


Haines Borough
Borough Assembly Meeting #248
AGENDA

June 25, 2013 - 6:30 p.m.

Location: Assembly Chambers, Public Safety Bldg.

Stephanie Scott,
Mayor

Dave Berry Jr.,
Seat A
Assembly Member

Steve Vick,
Seat B
Assembly Member

Debra Schnabel,
Seat C
Assembly Member

Joanne Waterman,
Seat D
Assembly Member

Norman Smith,
Seat E
Assembly Member

Jerry Lapp,
Seat F
Assembly Member

Mark Earnest,
Borough Manager

Julie Cozzi,
Borough Clerk

Michelle Webb,
Deputy Clerk

1. CALL TO ORDER/PLEDGE TO THE FLAG

2. ROLL CALL

3. 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:

- 4 – Approve Assembly Meeting Minutes
- 8B – Fire Department Report
- 8C – Chilkat Center Report
- 8D – Museum Report
- 9A – Planning Commission Minutes
- 9B – Museum Board Minutes

*** 4. APPROVAL OF MINUTES – June 11, Regular and June 14, Special**

5. PUBLIC COMMENTS [Any topics not scheduled for public hearing]

6. MAYOR'S COMMENTS/REPORT

7. PUBLIC HEARINGS

A. Ordinance 13-05-328 – Second Hearing

An Ordinance of the Haines Borough amending Borough Code Title 18, Section 18.80.030 to only require conditional use approval for the construction of a building within 15 feet of an adjacent building if one or both of the buildings is for human occupancy.

*This is recommended by the planning commission. It was introduced on 5/28 and had a first public hearing on 6/11. **Motion:** Adopt Ordinance 13-05-328.*

B. Ordinance 13-05-329 – Second Hearing

An Ordinance of the Haines Borough amending Borough Code Title 18, Section 18.80.040 to allow adjacent on-street parking to count toward the parking requirement.

*This is recommended by the planning commission. It was introduced on 5/28 and had a first public hearing on 6/11. **Motion:** Adopt Ordinance 13-05-329.*

C. Ordinance 13-05-330 – Second Hearing

An Ordinance of the Haines Borough amending Borough Code Title 18, Section 18.20.020 to adjust the time limit in the definition for "temporary use" to be consistent with the time period for temporary residence permits in Section 18.60.020.

*This is recommended by the planning commission. It was introduced on 5/28 and had a first public hearing on 6/11. **Motion:** Adopt Ordinance 13-05-330.*

D. Ordinance 13-05-331 – Second Hearing

An Ordinance of the Haines Borough adopting, by ordinance, a revised fee schedule that clarifies qualification for winter moorage rates.

*This is recommended by the harbor master. It was introduced on 5/28 and had a first public hearing on 6/11. **Motion:** Adopt Ordinance 13-05-331.*

E. Ordinance 13-05-327 – Second Hearing

An Ordinance of the Haines Borough amending borough code title 2, sections 2.08.010, 2.68.140, 2.68.200, and 2.68.510 to allow for election of assembly and school board members through single lists of candidates.

*On 5/14/13, this ordinance was referred to the Government Affairs & Services Committee that met on 5/23. It was introduced on 5/28 and had a first public hearing on 6/11. **Motion:** Adopt Ordinance 13-05-327.*

7. **PUBLIC HEARINGS** ---continued---

F. **Ordinance 13-06-332** – First Hearing

An Ordinance of the Haines Borough amending Borough Code Chapter 10.44 to provide that parking violations are subject to a civil fine; provide for the content of a notice of violation of parking restrictions; and establish an administrative appeal process for parking violations.

*This is recommended by manager and the police department. Juneau and Skagway recently adopted similar ones. It was introduced on 6/11 and referred to the government affairs & services committee for review prior to adoption. **Motion:** Advance Ordinance 13-06-3332 to a second hearing on 7/9/13.*

8. **STAFF/FACILITY REPORTS**

- A. **Public Facilities** – *Project Update and Update on Waterfront Powerlines (for the borough manager)*
- *B. **Fire Department** – *Staff Report of May 2013*
- *C. **Chilkat Center** – *Facility Report of May 2013*
- *D. **Museum Board** – *Staff Report of May 2013*

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

- *A. **Planning Commission** – *Minutes of 5/9/13*
- *B. **Museum Board** – *Minutes of 5/13/13*
- C. **Assembly Standing Committee Reports**

10. **UNFINISHED BUSINESS**

A. **Sales Tax Exemption Request – Great Bear Foundation**

Note: this 501(c)3 organization applied for sales tax exemption status as allowed by HBC 3.80.050(13). On 5/28, debate resumed on a proposed motion to approve, but it was once again postponed to ask the applicant to come back with a list of what the organization proposes to use the sales tax exemption for, differentiating between educational activities and commercial tours. Debate will resume on the following motion: “approve the request from Great Bear Foundation for sales tax exemption status, and authorize the borough clerk to issue an exemption certificate.”

11. **NEW BUSINESS**

A. **Resolutions**

1. **Resolution 13-06-468**

A Resolution of the Haines Borough Assembly authorizing acceptance of certain late-filed 2013 Senior Citizen/Disabled Veteran Property Tax Exemption applications.

*This resolution is requested by the assessor. **Motion:** Adopt Resolution 13-06-468.*

2. **Resolution 13-06-469**

A Resolution of the Haines Borough Assembly Authorizing an Early Retirement Incentive Program during the period of July 15, 2013 through November 30, 2013.

*Consideration of this type of program was requested by members of the assembly. **Motion:** Refer Resolution 13-06-469 to the Personnel and Finance Committees.*

3. **Resolution 13-06-470**

A Resolution of the Haines Borough Assembly requesting the Legislative Affairs Council authorize and fund a Legislative Information Office in Haines, Alaska.

*This resolution is requested by the mayor. **Motion:** Adopt Resolution 13-06-470.*

B. **Ordinances for Introduction** - None

C. **Other New Business**

1. **Letter to ADOT&PF regarding Herbicide Spraying**

*The mayor drafted a letter stating the assembly's preference that ADOT&PF refrain from spraying herbicides along state roadways. **Motion:** Confirm the draft letter to ADOT&PF Commissioner Kemp regarding herbicide and pesticide use in the Haines Borough.*

2. **Update on Redistricting Board Activity** – Discussion Item

*The borough attorney informed that the Fairbanks Superior Court sent the Alaska Redistricting Board back to work on an aggressive schedule of daily work meetings followed by a series of public hearings in order to produce Alaska voting districts based on the Alaska Constitution. It is possible that this process will result in re-districting Haines, moving Haines from its association with Sitka & other rural communities, and aligning Haines with the Northern Mendenhall Valley & Skagway. There are several questions to consider: 1) How should the Haines Borough participate in this process? 2) Prepare a statement defending our alignment with Sitka & present it during the July 2 public hearing? 3) Wait and see what plan is produced and whether it changes the boundaries from those we objected to in 2012 (through adopted Resolution 12-05-363)? 4) Should at least one person at least be assigned to listen to the teleconferenced hearing July 2? **The assembly will discuss this matter, and a motion may result.***

12. SET MEETING DATES

A. Government Affairs & Services Committee Meeting – *to Review Parking Citation Ordinance*

13. PUBLIC COMMENTS

14. ANNOUNCEMENTS/ASSEMBLY COMMENTS

15. ADJOURNMENT


Haines Borough
Borough Assembly Meeting #247
June 11, 2013
MINUTES

Draft

1. **CALL TO ORDER/PLEDGE TO THE FLAG:** Mayor **Scott** called the meeting to order at 6:30 p.m. in the Assembly Chambers and led the pledge to the flag.

2. **ROLL CALL**

Present: Mayor Stephanie **Scott**, and Assembly Members Joanne **Waterman**, Debra **Schnabel**, Jerry **Lapp**, Dave **Berry**, Norman **Smith**, and Steve **Vick**.

Staff Present: Mark **Earnest**/Borough Manager, Brooks **Chandler**/Borough Attorney (via Teleconference) Julie **Cozzi**/Borough Clerk, Jila **Stuart**/Finance Director, Simon **Ford**/Interim Police Chief, Carlos **Jimenez**/Director of Public Facilities, Michelle **Webb**/Deputy Clerk, Tanya **Carlson**/Tourism Director, Jerrie **Clarke**/Museum Director, Kris **Reeves**/Museum Assistant, Rebecca **Heaton**/Assistant Librarian, and Krista **Kielsmeier**/Public Facilities Administrative Assistant & Tourism Aide.

Visitors Present: Karen **Garcia**/CVN, Margaret **Friedenauer**/KHNS, Rob **Goldberg**, Jack **Wenner**, Paul **Nelson**, Dave **Kammerer**, James **Alborough**, Ted and Anastasia **Wiley**, Jim **Heaton**, Sierra **Jimenez**, Melissa **Henry**, Melissa **Aronson**, Cecily **Stern**, Dick **Flegel**, Ginger **Stigen**, Neil **Einsbruch**, Bob and Margaret **Plucker**, Renee **Hoffman**, Kristin **White**, Susan **Tandy**, Ardy **Miller**, Michael **Byer**, Henriette **Aronsen**, Lorraine **Dudzik**, Michael **Marks**, Bill **Kurz**, Tom **Andriesen**, and others.

3. **APPROVAL OF AGENDA & CONSENT AGENDA**

The following Items were on the published consent agenda:

- 4 – Approve Assembly Meeting Minutes
- 8B – Library Report
- 9A – Library Board Minutes
- 11A1 – Adoption of Resolution 13-06-458
- 11A2 – Adoption of Resolution 13-06-467
- 11B1 – Introduction of Ordinance 13-06-332
- 11C3 – Increase Limits for Transporting Explosives across Lutak Dock

Motion: **Berry** moved to “approve the agenda/consent agenda,” and it was amended to add 11C6 - *Consideration of Underground Utility Districts* to the agenda and remove 11B2 from the consent agenda. The agenda, as amended, was approved unanimously.

* 4. **APPROVAL OF MINUTES** – May 28, 2013 Regular

5. **PUBLIC COMMENTS**

Stigen expressed concern about the tree stumps she believes are in violation of nuisance code section HBC 8.12.010 that are placed next to her elderly parents’ property. It is unsafe for visitors, residents and caregivers because of poor traffic visibility. The bad appearance also impacts the ability to sell the property and they really need to sell to afford to move into assisted living. For a community that prides itself on being attractive, it is very unsightly.

Kammerer believes the assembly has used questionable tactics in retaining the borough manager. He has failed to perform his duties. The manager must not supervise the police chief. The borough attorney needs to make an advisory opinion concerning a conflict of interest involving the Executive Assistant to the Manager. The appearance of a conflict of interest should be avoided.

Einsbruch commented on the amount of leave time the manager is banking regardless of what he actually uses.

Nelson does not believe Haines has a borough manager based on recent history. Issues such as solid waste, assessment, and police department issues come to his mind. The people should elect the manager and chief of police. Every two years they should have to run for reelection. The assembly is supposed to represent the people of Haines not the Haines government.

6. **MAYOR’S COMMENTS/REPORT**

Mayor **Scott** said one concern brought to her recently is herbicide spraying on roadways. She has spoken with many managers in the state and has been told they have no intention of spraying on the Haines area roadways and they will welcome a letter from the borough stating our wish not to have that happen.

The mayor said Mike Forbush from Ocean Beauty will be in Haines and is bringing 1200 lbs of fish they are donating for the fishermen's barbecue on Saturday.

7. PUBLIC HEARINGS

A. Ordinance 13-04-324 – third Hearing

An Ordinance of the Haines Borough , Alaska, providing for the establishment and adoption of the budget of the Haines Borough for the Period July 1, 2013 through June 30, 2014 (Fiscal Year 2014).

Mayor **Scott** opened the public hearing at 6:45pm.

Aronson said this is a wonderful community because of the services. She asked the assembly to fund all of the nonprofits at the level requested this year.

Alborough spoke for Dolphins Swim Team and their funding request. Also, as a library board member, he asked for full funding of the library's requested budget.

Henry spoke for the Chilkat Valley Preschool on behalf of several others present representing the organization. She thanked the assembly for past support and asked for continued funding at the requested levels for all nonprofits.

M.Plucker expressed library support. She has volunteered there for 16 years. She thanked the assembly for supporting people of all ages.

Stern, library board member, requested the assembly approve the original manager's budget. She said it isn't just a library, it's a community center. She wants the assembly to keep the doors open 7 days per week. Additionally, she is disappointed in the budget process, because it's so divisive. She recognizes the borough administration needs operating funds, too. It's a discouraging process pitting people against each other. Please come up with a different way to do it.

R.Heaton, library employee, said three families in Haines have told her the library tipped Haines into the winning column when they were trying to decide where to live. For the library to maintain the current services, the assembly needs to fund them at the level the manager recommended.

Andriesen, treasurer of Haines Dolphins Swim Team, said borough funding is a major part of their operating revenue. They are the main user of the pool. He appreciates the past funding.

Marks, museum board member, asked for more funding for the museum.

A.Wiley, museum board member, distributed a handout about the Museums Alaska conference scheduled to be in Haines in September. She also spoke about archeology and the role the museum plays in that in addition to history. The more money, the more job opportunities, the more conferences, and so on. Please provide job opportunities, help kids get into college, and bring money to the community by continuing to support the museum.

S.Jimenez spoke for Southeast Alaska Independent Living but she also noticed there are at least six different nonprofits that directly affect her family. There is a big return to the community when the borough contributes funding.

Chapell said her family chose to move to Haines in part because of the library. It's a functioning year-round town that keeps them here. Please restore full funding to all of the nonprofits. Their requests are modest and the returns are immeasurable. Those are the things keeping families here.

Byer, School Superintendent, said he believes the school district could absorb a cut this year, if necessary. They are trying to be careful and prudent in their expenditures. It would be good to start the budget process much earlier in the future. He offered that if \$40K would help the library and the museum, it would be a good investment because the school benefits from that, as well.

Flegel, treasurer for the library board, said there are three budget options before the assembly this evening: the one prepared by the borough manager, option A, and option B. The library could probably live with option B if they had to, but they would like to see the budget restored. Option A would mean closing the doors one or two days a week.

J.Heaton, museum board member, spoke in support of the museum and other cultural entities in Haines and what they do for the local schools. He also said government owning a museum collection is an exception to the norm.

Clarke appreciates the tough job the assembly members have. She thanked them for restoring the museum appropriation to the FY13 level.

White, a Chilkat Valley Preschool teacher and board member, asked the assembly to please fund the nonprofits, pool, library, and museum. It seems there is money to spend on certain things that might not need to be funded at the expense of cutting the life out of the community.

Goldberg agreed there are a lot of great services in Haines. We need to creatively think about ways to increase the revenues coming into the community. He volunteered to help brainstorm ideas.

Kammerer suggested the borough not replace the police chief and use that money to fund the nonprofits.

Hearing no further comments, the mayor closed the public hearing.

Motion: **Vick** moved to "adopt Ordinance 13-04-324," and it was amended to go with mill rate Option #2. The main motion, as amended, carried 4-2 in a roll call vote with **Vick** and **Smith**.

During the ordinance discussion, **Vick** thanked the public for their comments. The assembly has been working on this budget for a long time. He agrees with **Waterman** that the borough's departments should be funded first. He suggested the assembly might have a conversation before getting into formal motions as a way of coming up with a collaborative set of amendments.

Motion: **Vick** moved to "suspend the rules to allow a 10-15 minute discussion about the budget prior to amendment motions being made," and the motion carried unanimously.

Vick noted some are willing to adjust their budgets this year to help nonprofits be funded possibly at their requested levels. Regarding the mill rate options #1 and #2, **Schnabel** said she wasn't thinking the options would be to cut travel, training, children's activities, and holiday party. There are ways to be more efficient in processes and staffing. She's not inclined to go to the line with proposing that either option be adopted. She believes the manager is on board with working over the next year to find ways to be much more efficient. She is willing to adopt a budget tonight that's even higher provided the assembly and manager work with the assembly over the next year to effect the needed changes to address reduced revenue. **Smith** said the planning commission needs to be convinced to sell some land. The borough owns a lot of land and that's an answer to part of the dilemma. Also, he questioned if a police chief is really necessary. He'd rather see another officer hired. He spoke against the extravagance of fireworks. **Berry** said one of the issues easily addressed is selling property. **Lapp** said he would like to see the people embrace economic development in this town so the services the people like such as the library, museum, and pool can be afforded. He supports the budget before the assembly. **Scott** reminded that the assembly needs to adopt a mill rate this evening. She is concerned about fiscal responsibility. **Schnabel** said one of the things Haines has is a permanent fund. It's the borough's rainy day fund but it's never raining hard enough. As for the mill rate, people have told her they are pleased the assembly is trying to keep it down. However, she has had people also ask her why we are afraid of raising it. She wondered why the options have to be limited to cutting services. **Waterman** agreed with **Schnabel**. She would love to hear from this community that they are willing to pay more to fund the services they want. Also, the administration is working hard on economic development. She agreed the wheels need to get going on a land sale. **Lapp** is not in favor of raising the mill rate on top of the increase in land values this year. **Stuart** explained that both options presented by the manager would decrease the mill rates, albeit one more than the other. **Vick** moved to "amend by reducing the museum and library budgets by \$5,000 each and the school by \$8,000 and increase the community chest by \$18,000 in Fund 01," and it **failed** with **Schnabel**, **Waterman**, **Schnabel**, and **Berry** opposed. **Waterman** couldn't support it. The borough has accepted responsibilities and she wants them to be funded. **Schnabel** said she would not support it, either. She is willing to recognize there is a pool of funds set aside for community funding requests. If the committee that evaluates the requests determines they all merit funding, the assembly can do a budget amendment.

B. Ordinance 13-05-325 – Second Hearing

An Ordinance of the Haines Borough amending Haines Borough Code Chapter 2.40 and Section 2.50.040 to authorize the manager to appoint the police chief, to modify the duties of the police chief, and to make the hiring of police and correctional officers subject to state law.

Mayor **Scott** opened the public hearing at 8:16pm.

Nelson spoke against this and wondered who's really in charge. There are other states where the sheriff is elected. He believes the people should elect the police chief in Haines.

Kurz believes putting this in the manager's lap is putting too much power in one person's hands. Rather, use a super-majority of the assembly to hire and fire.

Hearing no further comments, the mayor closed the public hearing at 8:19pm.

Motion: **Berry** moved to “adopt Ordinance 13-05-325,” and it carried 5-1 in a roll call vote with SMITH opposed.

During the discussion, **Berry** said he doesn’t believe the assembly should put more headaches and responsibilities on the borough manager. **Schnabel** spoke in favor of the motion. The only time the assembly is active is when they are in session, so they can’t really supervise. The borough’s personnel director is the borough manager and that is the right one to hire and fire the chief of police. **Earnest** said the structure we have is a manager/assembly form of government. This ordinance will not add anymore to the manager, because the manager currently supervises the chief up to the point of termination. However, if you have a situation where the chief of police is an issue, there is all of a sudden a parallel involvement of the assembly. Under this ordinance, the manager would make a hire recommendation requiring assembly approval. Then, if behavior rises to the level of termination, the assembly would then confirm that recommendation. The ordinance also removes the position from being a borough officer in order to prevent a conflict with borough charter.

C. **Ordinance 13-05-326** – Second Hearing

An Ordinance of the Haines Borough amending Borough Code Title 16, Section 16.16.010 establishing a deadline for returning harbor slip license agreements.

Mayor **Scott** opened and closed the public hearing at 8:30pm; there were no public comments.

Motion: **Lapp** moved to “adopt Ordinance 13-04-326,” and it carried unanimously in a roll call vote. There was no discussion.

D. **Ordinance 13-05-328** – First Hearing

An Ordinance of the Haines Borough amending Borough Code Title 18, Section 18.80.030 to only require conditional use approval for the construction of a building within 15 feet of an adjacent building if one or both of the buildings is for human occupancy.

Mayor **Scott** opened the public hearing at 8:31pm.

Goldberg said right now the code requires 15-feet of separation between a dog house and a tool shed. That takes up a lot of the planning commission’s and staff’s time and is frivolous. This ordinance says one of the buildings has to be intended for human occupancy, and the planning commission recommends this change.

Hearing no further comments, the mayor closed the public hearing at 8:35pm.

Motion: **Berry** moved to “advance Ordinance 13-05-328 to a second public hearing on 6/25/13,” and it carried unanimously. There was no discussion.

E. **Ordinance 13-05-329** – First Hearing

An Ordinance of the Haines Borough amending Borough Code Title 18, Section 18.80.040 to allow adjacent on-street parking to count toward the parking requirement.

Mayor **Scott** opened the public hearing at 8:36pm.

Goldberg said this will enable business owners in the downtown area to ask the planning commission to allow them to include some legal on-street parking in the number of required parking spaces. He understands the term “short-term parking” concerns some because it is not defined in code. So, remove that term. It could be handled with signage to prevent overnight parking.

Hearing no further comments, the mayor closed the public hearing at 8:39pm.

Motion: **Waterman** moved to “advance Ordinance 13-05-330 to a second public hearing on 6/25/13,” and it was amended to remove “short-term” from the section. The motion, as amended, carried 4-2 with **Smith** and **Schnabel** opposed.

Smith is concerned about Main Street and a problem with parked RVs. **Earnest** and **Scott** agreed that is an important but separate issue that can be dealt with another way. **Schnabel** asked how the planning commission imagines this working. **Goldberg** said this is only for commercial businesses and the on-street spots would still belong to the public. He agreed the RV concern could be addressed with signage. **Scott** believes a better solution is to redo the parking formula. The on-street spaces belong to the public. **Goldberg** said the planning commission considered that, but it’s tricky. **Waterman** reiterated this is for commercial entities. If you change the parking requirements in code, you’ll have people parking on the street anyway. This ordinance will give the planning commission the ability to consider it for a business. The lots in Haines are very small. She trusts the planning commission to make informed decisions. **Schnabel** suggested it should have specific criteria, because it is very subjective. She wondered about situations when the property has a change of use. This could become a political issue for the planning commission. **Goldberg** said this is no more

political than requests for conditional use permits that come to the commission.

F. **Ordinance 13-05-330** – First Hearing

An Ordinance of the Haines Borough amending Borough Code Title 18, Section 18.20.020 to adjust the time limit in the definition for “temporary use” to be consistent with the time period for temporary residence permits in Section 18.60.020.

Mayor **Scott** opened the public hearing at 8:59pm.

Goldberg explained the ordinance corrects a code inconsistency.

Hearing no further comments, the mayor closed the public hearing at 9:00pm.

Motion: **Berry** moved to “advance Ordinance 13-05-331 to a second public hearing on 6/25/13,” and it carried unanimously. There was no discussion.

G. **Ordinance 13-05-331** – First Hearing

An Ordinance of the Haines Borough adopting, by ordinance, a revised fee schedule that clarifies qualification for winter moorage rates.

Mayor **Scott** opened and closed the public hearing at 9:01pm; there were no public comments.

Motion: **Waterman** moved to “advance Ordinance 13-05-331 to a second public hearing on 6/25/13,” and it carried unanimously. There was no discussion.

H. **Ordinance 13-05-327** – First Hearing

An Ordinance of the Haines Borough amending borough code title 2, sections 2.08.010, 2.68.140, 2.68.200, and 2.68.510 to allow for election of assembly and school board members through single lists of candidates.

Mayor **Scott** opened and closed the public hearing at 9:02pm; there were no public comments.

Kurz spoke against this. He really believes the current method is not broken and he thinks the change may actually cause problems.

Hearing no further comments, the mayor closed the public hearing at 9:03pm.

Motion: **Schnabel** moved to “advance Ordinance 13-05-327 to a second public hearing on 6/25/13,” and it carried 4-3 with **Vick**, **Lapp**, and **Berry** opposed and the mayor breaking the tie in the affirmative.

Schnabel said the existing code describes the elected offices in this borough and states the ballot shall list the offices and candidate lists. **Earnest** explained the borough attorney is preparing some guidance regarding the implementation timeframe.

8. **STAFF/FACILITY REPORTS**

A. **Borough Manager – 6/11/13**

Earnest summarized his written report. He announced the formation of the heliski map committee and said they are scheduled to meet over the next three Fridays. **Smith** asked if this committee will be discussing a change in the penalties. **Earnest** said per code this committee looks only at map amendment proposals.

B. **Public Library – Staff Report of April 2013**

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

* A. **Library Board of Trustees – Minutes of 4/17/13**

B. **Assembly Standing Committee Reports**

Waterman said the Personnel Committee met and it was well attended by members of the public. The committee recommends changes to the leave portion of the borough manager’s contract, and they are still working on the language. They hope to bring it to the assembly in July. Additionally, during the meeting the manager presented the proposals from professional recruiting services. The committee recommends the chief of the police be handled by the traditional hiring process, but they did ask the manager to look into hiring someone to perform the background checks on the finalists. The resurrected Public Safety Commission is a large part of the hiring process, as well. And, having a lot of public input will be important.

Motion: **Berry** moved to “accept the Personnel Committee’s recommendation regarding the recruitment of a police chief,” and it carried unanimously.

10. **UNFINISHED BUSINESS**

11. **NEW BUSINESS**

A. **Resolutions**

*1. **Resolution 13-06-458**

A Resolution of the Haines Borough Assembly authorizing the Borough Manager to contract with Kenworth Alaska in the amount of \$165,300 for the purchase and delivery of a T800 dump truck.

The motion adopted by approval of the consent agenda: "adopt Resolution 13-06-458."

*2. **Resolution 13-06-467**

A Resolution of the Haines Borough Assembly authorizing the Borough Manager to contract with Murray and Associates, P.C. in the amount of \$15,373 for mechanical and electrical engineering for the Mosquito Lake School fan replacement project.

The motion adopted by approval of the consent agenda: "adopt Resolution 13-06-467."

B. Ordinances for Introduction

1. **Ordinance 13-06-332**

An Ordinance of the Haines Borough amending Borough Code Chapter 10.44 to provide that parking violations are subject to a civil fine; provide for the content of a notice of violation of parking restrictions; and establish an administrative appeal process for parking violations.

Motion: Lapp moved to "introduce Ordinance 13-06-332 and set a first public hearing for 6/25/13," and it carried unanimously.

Smith asked if the fines will come to the borough rather than the state. [Yes] He would also like to see some parking violations enforced, such as yellow and blue curbs.

C. Other New Business

1. **Non-Profit Scoring Matrix and Procedures**

Note: Twelve FY14 funding requests were received from nonprofits by the 6/1 application deadline. Assuming funds would be allocated to address the funding requests, the mayor drafted a scoring matrix to assist with the review and suggested an ad hoc committee to do the scoring.

Motion: Schnabel moved to "establish an ad hoc committee comprised of the mayor, manager, finance director, and two assembly members to score the FY14 nonprofit funding requests as proposed by the mayor in her memorandum dated 6/3/13," and the motion carried 4-2 with Vick and Smith opposed.

Scott suggested the committee work on refining the scoring matrix. Berry and Waterman volunteered to serve on the committee.

2. **Confirm Draft Letter to ADF&G about Upper Lynn Canal Crab Fishery**

Note: on 5/28/13, the assembly asked the mayor to draft a letter to the ADF&G Commissioner asking for her help mitigating the indirect impacts of sea otters on the Dungeness crab stock in the Upper Lynn Canal.

Motion: Berry moved to "confirm the draft letter to Commissioner Campbell regarding the Upper Lynn Canal Crab Fishery," and the motion carried unanimously.

During discussion, the assembly worked on the draft letter and came up with language acceptable to all. Lapp said some people don't believe an emergency closure would be good for the local fishermen. Smith said 90K pounds of crab was harvested this past year. This fishery cannot sustain that for the next three years. The Board of Fish doesn't address shellfish issues again until 2015. The borough needs to bring attention to the fact that there are issues now not when the Board of Fish meets in two years. The borough should ask for an out-of-cycle review by the Board. Goldberg said the damage has been done. The crabs are gone.

*3. **Increase Limit for Transporting Explosives Across Lutak Dock**

The motion adopted by approval of the consent agenda: "authorize the borough manager to send the draft letter to the US Coast Guard in support of increasing the limit for transport of explosives across the Lutak Dock."

4. **In-kind Match to Southeast Conference for Federal EDA "Investing in Manufacturing Communities Partnership" Planning Grant**

Note: Southeast Conference (SEC) has a steering committee working on a planning grant from the Federal Economic Development Administration (EDA) to move the region in a forward direction with manufacturing development - "Investing in Manufacturing Communities Partnership". SEC believes this region is ready for manufacturing expansion in the Maritime

Industry and this planning grant would provide some funds to analyze the region's priorities. SEC's request to EDA was to be for \$200,000 and would need a match of \$200,000. They are asking for commitments from conference members to provide in-kind or financial contributions as a portion of the required match.

Motion: **Berry** moved to "approve an in-kind contribution to Southeast Conference as a part of the required match for an EDA "Investing in Manufacturing Communities Partnership" planning grant," and the motion carried unanimously.

6. Consideration of Underground Utility Districts

Note: this item was added as 11C6 during approval of the agenda and subsequently moved ahead of item 11C5 Executive Session by consensus.

Schnabel said she is disappointed that another opportunity was missed to have power lines buried at the new Beach Road intersection. She suggested this issue be referred to the planning commission. **Goldberg** said back in Third Class Borough days, the Mud Bay Land Use Service Area wrote in code that power lines would be buried. **Schnabel** wondered what it's worth to the borough to have the poles removed. **Earnest** said it is very expensive to bury lines, and the idea should be put into the context of all of the other roads and buildings. **Smith** moved to direct the borough manager to contact the Regulatory Commission of Alaska about putting underground power in the waterfront project. It failed for lack of a second.

Motion: **Waterman** moved to "investigate language for utility districts and also designate priorities for future road projects," and the motion carried unanimously.

Waterman suggested the waterfront area might be designated the number one priority, so we can take care of business in the future. **Berry** suggested the code could state that any future projects would require underground utilities. **Lapp** noted if an ordinance is in place, the state would put underground utilities in their project cost estimates.

14. PUBLIC COMMENTS – moved ahead of the Executive Session by consensus

Clarke thanked the assembly for the museum budget. The museum can work with the borough to help get things done.

Wenner agreed that underground power is very expensive.

11. C. 5. Executive Session – Review of Assembly Investigative Procedures

Note: on 5/14/13, this agenda item was rescheduled to this meeting.

Motion: **Waterman** moved to "go into executive session as allowed by AS 44.62.310(c)(2) and Haines Borough Charter Section 18.03 to review assembly investigative procedures; this matter qualifies for executive session because a public discussion would tend to prejudice the character and reputations of persons involved; the borough manager and borough attorney are requested to attend," and the motion carried 5-1 with **Lapp** opposed.

Present: Mayor Scott; Assembly Members Lapp, Waterman, Vick, Berry, Schnabel, and Smith; Borough Manager Mark Earnest, and Borough Attorney Brooks Chandler (via teleconference). The executive session convened at 10:24pm and ended at 11:03pm.

No action was taken following the executive session.

12. CORRESPONDENCE/REQUESTS - None

13. SET MEETING DATES - None

14. PUBLIC COMMENTS – moved ahead of the Executive Session by consensus

15. ANNOUNCEMENTS/ASSEMBLY COMMENTS - None

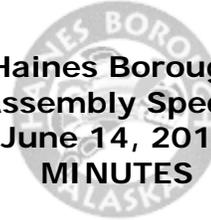
16. ADJOURNMENT – 11:04pm

Motion: **Berry** moved to "adjourn the meeting," and the motion carried unanimously.

ATTEST:

Stephanie Scott, Mayor

Julie Cozzi, MMC, Borough Clerk



Haines Borough
Borough Assembly Special Meeting
June 14, 2013
MINUTES

Draft

THIS SPECIAL MEETING WAS HELD SOLELY FOR CONSIDERING THE ITEMS LISTED ON THE PUBLISHED AGENDA. NO ADDITIONAL ISSUES WERE CONSIDERED AT THIS MEETING.

1. **CALL TO ORDER/PLEDGE TO THE FLAG**

Mayor **SCOTT** called the meeting to order at 1:13pm in Assembly Chambers and led the pledge to the flag.

2. **ROLL CALL**

Present: Mayor **SCOTT** and Assembly Members Debra **SCHNABEL**, Norm **SMITH**, Steve **VICK**, Joanne **WATERMAN** and Dave **BERRY**. **Absent:** Jerry **LAPP**.

Staff Present: Mark **EARNEST**/Borough Manager, Julie **COZZI**/Borough Clerk, Carlo **JIMENEZ**/Director of Public Facilities, Jila **STUART**/Finance Director, Tanya **CARLSON**/Tourism Director, and Krista **KIELSMEIER**/Public Facilities Administrative Assistant.

Visitors Present: Karen **GARCIA**/CVN, Margaret **FRIEDENAUER**/KHNS, Bill **KURZ**, Neil **EINSBRUCH**, Jeremy **STEPHENS** (Engineering Assistant with ADOT&PF), Roger **SCHNABEL** (Southeast Road Builders), Daniel **GONCE** (Alaska Power & Telephone), Patty **CAMPBELL** (Haines TV Cable), and representing ADOT&PF via teleconference: Pat **CARROLL** (Engineer/Architect), Fred **THORSTEINSON** (Engineering Assistant), Chris **SHELBY** (Environmental Impact Analyst), Joseph **BUCK** (Engineering Assistant), and John **BARNETT** (Engineering Assistant).

3. **APPROVAL OF SPECIAL MEETING AGENDA**

Motion: **Berry** moved to "approve the special meeting agenda," and the motion carried unanimously.

4. **PUBLIC COMMENTS**

Gonce explained the process to install underground lines and AP&T's involvement in this particular project.

5. **BUSINESS**

A. Power poles on Front Road / Beach Road and Haines Highway area

Note: this meeting was called at the request of three assembly members to discuss potential solutions to the visual impact of the newly installed power poles at the intersection of Front Road / Beach Road and the Haines Highway. All agreed to hold a discussion of this item prior to having a motion on the floor.

During the discussion, **Smith** said if he had known this would be the result, he never would have approved the project. This is Mile 0 of the Historic Haines Highway. It's also a historic fort and waterfront area. The poles appear to him to be over the 30-foot height limit, and he's appalled to see the wires going across the road that weren't there before. The assembly needs to come up with a solution. **Berry** said the assembly has to be very careful about promising the borough's fund balances. At the last budget meeting, the assembly found out 47% of the operating budget is coming from the fund balances. **Vick** agrees with the principal behind having no poles and wires on the waterfront, but he doesn't know where the funding is to undo this one. He suggested that perhaps going forward would be a good idea, looking toward long-term solutions to make sure it doesn't happen again. **Waterman** said she has known this is a priority but has not been diligent to make sure it would be the standard. She realizes Haines has a good relationship with ADOT&PF and would like to maintain that. Everyone around the table agrees the waterfront should be wireless, but the questions are how would it affect this project and is there any way the borough and state can work together to make it happen, if it is even feasible. **Carroll** said at this point, it would still be slightly cheaper to replace the installed poles with underground wiring because the pavement is not yet in place. However, there is no excess funding for the state to contribute. He stressed this could affect the construction schedule, and the project cannot be delayed. **Thorsteinson** said it would be possible to put vacant conduits under the road so that this could be corrected in the future, if desired. That would require 100% of borough funding and also permitting would be the borough's responsibility. **Vick** clarified that means laying the footwork for the future. **Gonce** provided an estimate of the cost: \$98,617 for power, materials/ and labor. That does not include civil work or phone. **Gonce** explained where the poles, wiring, and trenching would be. **Thorsteinson** said right now there are lights on the poles, if those go down, the borough would have to come up with other lighting. State code for burying electrical cables in the roadway specifies 4 feet, so an estimated \$15K cost per light would be a little conservative. **Gonce** notes AP&T's \$98,617

estimate includes the street lights. **Vick** asked for a rough cost estimate for laying vacant conduits for future insertion of underground wiring. **Stephens** said there was quite a bit of contaminated soil in the Delta Western area and more digging may add to the cost. **R.Schnabel** said he works off of plans. He hates to hear estimates right now when the cost could possibly end up double the amount given all the variables and unknowns. **Campbell** explained her cable TV is a utility, as well, and all utilities should be installed at the same time. **Scott** said obviously this has to be properly designed and bid out. **Earnest** said this was pretty much worked out a year ago during June 2012. He agreed it's visually intrusive. It isn't what it looked like on paper and now we're trying to figure out if there is a remedy. **Vick** said he likes the idea of prepwork conduit as an immediate step. He asked if there is time to interject this into the project. **R.Schnabel** said right now, he is scheduled to pave in August but if his three-week extension request is approved by the state, the paving would be in September. **Stephens** clarified the schedule calls for paving the end of August with project completion September 15. **D.Schnabel** said she would like to do this now, because if it is put it off, it won't get done. **Waterman** asked what the timeline would be for getting the design and permits. **Thorsteinson** said if it's just conduit in the state right of way, the borough could draw lines on the project design plans and send it down for utility permitting. **R.Schnabel** said the project engineer has made it very clear there is no money. Ordinarily, the state does A1 work, but they are handcuffed as far as funding for this project. Quite frankly, he would like to see this project shut down for now, because ADOT&PF doesn't have the proper funding to do the job right. In his opinion, the project was not designed properly and cannot be done right with the amount of money available. He thinks it should be left with just D1 material on it for a year. **Carroll** said the funds were limited and they stretched the project as far as possible. The project will end just before Kathleen Drive even though the project was designed to go clear to the Portage Cove campground. There is no more funding for it. **D.Schnabel** asked about the possibility of using some of the cruise ship head tax money, and **Earnest** explained the rules changed and the allowable uses are very restricted now. He will confirm whether or not this would qualify. **Waterman** said if there can be some creative solutions to this, she would hope that any options could be explored. The borough accepts responsibility for its tardiness, and she apologized to the state. She hopes they hear how important the waterfront is for this community. She added that as the borough goes forward creating utility districts, the waterfront will more than likely be the number one priority.

Motion: **Vick** moved to "direct the manager to research cost estimates for 1) burying the crossings-only conduits, 2) burying conduits along the roadway clear to Main Street including the crossings, and 3) doing the full underground utility project now," and it was amended to also find out if cruise ship money is available and eligible for this project. The motion, as amended, carried 4-1 with **Berry** opposed.

D.Schnabel said the borough should look at identifying whether the cruise ship fund balance is eligible for waterfront pedestrian walkway and safety issues. She asked ADOT&PF what they can do to improve this project. Perhaps several projects could be corrected at one time. **R.Schnabel** said he's under contract with the state of Alaska and the timing is very critical. He has to continue on the state's schedule. Another contractor cannot come onboard. The state needs to administer this so he doesn't have to get involved in dealing with the borough on this additional work. The designer, Mr. **Carroll**, could really help. There are many obstacles with the potential ideas. **Scott** said the assembly's intention is for staff to work with the state to come up with estimates that are as close as possible. **Smith** asked if there is a response from the state on doing a trade if the borough covered the sidewalks with cruise ship funding and the state partnered on the trenching. **Carroll** said the state couldn't administer this contract. This could cause problems with the funding, as well. The state cleared the project and had it all environmentally cleared, etc. Their process did not clear them for this type of work. This has to be the borough's project. **Vick** thanked ADOT&PF for the project and said the intersection looks great, except for the poles.

B. Sidewalks on Front Road and Beach Road and Haines Highway area

Note: This agenda item was not addressed because Waterman and Vick had to leave the meeting. There was no longer a quorum.

6. ADJOURNMENT – 2:29pm

Motion: **BERRY** moved to "adjourn the meeting," and the motion carried unanimously.

ATTEST:

Stephanie Scott, Mayor

Julie Cozzi, MMC, Borough Clerk



**Haines Borough
Assembly Agenda Bill**

Agenda Bill No.: 13-283
Assembly Meeting Date: 6/25/13

Business Item Description:	Attachments:
Subject: Conditional Use Approval - less than 15-ft building separation, at least one building is for human occupancy Originator: Planning Commission Originating Department: Date Submitted: 5/10/13	1. Ordinance 13-05-328 2. Planning Commission Recommendation

Full Title/Motion:
 Motion: Adopt Ordinance 13-05-328.

Administrative Recommendation:
 The borough manager recommends this.

Fiscal Impact:

Expenditure Required	Amount Budgeted	Appropriation Required
\$	\$	\$

Comprehensive Plan Consistency Review:

Comp Plan Policy Nos.:	Consistent: <input type="checkbox"/> Yes <input type="checkbox"/> No
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Summary Statement:

The Planning Commission has seen several conditional use applications for the 15-foot building separation requirement that involved unoccupied structures. Since the 15-foot building separation is for public safety and fire-related concerns, the commission believes the 15-foot separation between unattached buildings applies only when at least one of the buildings is for human occupancy.

Referral:

Sent to:	Date:
Recommendation:	Meeting Date:
Refer to:	

Assembly Action:

Workshop Date(s):	Public Hearing Date(s): 6/11/13 & 6/25/13
Meeting Date(s): 5/28, 6/11, 6/25/13	Tabled to Date:

AN ORDINANCE OF THE HAINES BOROUGH AMENDING BOROUGH CODE TITLE 18, SECTION 18.80.030 TO ONLY REQUIRE CONDITIONAL USE APPROVAL FOR THE CONSTRUCTION OF A BUILDING WITHIN 15 FEET OF AN ADJACENT BUILDING IF ONE OR BOTH OF THE BUILDINGS IS FOR HUMAN OCCUPANCY.

BE IT ENACTED BY THE HAINES BOROUGH ASSEMBLY:

Section 1. Classification. Section 4 of this ordinance is of a general and permanent nature and the adopted amendment shall become a part of the Haines Borough Code.

Section 2. Severability. If any provision of this ordinance or any application thereof to any person or circumstance is held to be invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

Section 3. Effective Date. This ordinance is effective upon adoption.

Section 4. Amendment of Section 18.80.030. Section 18.80.030 of the Haines Borough Code of Ordinances is amended to read as follows:

NOTE: **Bolded**/UNDERLINED ITEMS ARE TO BE ADDED
STRIKETHROUGH ITEMS ARE DELETED

18.80.030 Setbacks and height.

The distance between unattached buildings must be 15 feet unless approved as a conditional use by the planning commission. Building separation is intended for public safety; fire-related concerns must meet the approval of both the state fire marshal and local fire department, **where applicable. The 15-foot separation between unattached buildings applies only when at least one of the buildings is for human occupancy.**

ADOPTED BY A DULY CONSTITUTED QUORUM OF THE HAINES BOROUGH ASSEMBLY THIS ____ DAY OF _____, 2013.

ATTEST:

Stephanie Scott, Mayor

Julie Cozzi, MMC, Borough Clerk

Date Introduced: 05/28/13
Date of First Public Hearing: 06/11/13
Date of Second Public Hearing: 06/25/13

Haines Borough
**BOROUGH ASSEMBLY
ACTION REQUEST**

DATE: May 10, 2013

TO: Borough Assembly

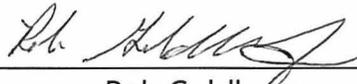
FROM: Haines Borough Planning Commission

PLANNING COMMISSION ACTION: M/S Heinmiller moved to “recommend the Assembly amend Haines Borough Code **18.80.030** to require a conditional use approval for the construction of a building within 15-foot of an adjacent building if one of the buildings is for human occupancy.” The motion passed unanimously.

RATIONALE: The Planning Commission has seen several conditional use applications for the 15-foot building separation requirement that involved unoccupied structures. Since the 15-foot building separation is for public safety and fire-related concerns, the commission thinks that 15-foot separation between unattached buildings applies only when at least one of the buildings is for human occupancy.

PLANNING COMMISSION REQUEST: for the Borough Assembly to amend HBC **18.80.030 Setbacks and height** to read:

The distance between unattached buildings must be 15 feet unless approved as a conditional use by the planning commission. Building separation is intended for public safety; fire-related concerns must meet the approval of both the state fire marshal and local fire department, **where applicable. The 15-foot separation between unattached buildings applies only when at least one of the buildings is for human occupancy.**

SUBMITTED BY  (signature)
Rob Goldberg
Planning Commission Chairman

HAINES BOROUGH, ALASKA
ORDINANCE No. xx-xx-xxx

Draft

AN ORDINANCE OF THE HAINES BOROUGH AMENDING HAINES BOROUGH CODE TITLE 18 SECTION 18.80.030 TO REQUIRE A CONDITIONAL USE APPROVAL FOR THE CONSTRUCTION OF A BUILDING WITHIN 15 FEET OF AN ADJACENT BUILDING IF ONE OR BOTH OF THE BUILDINGS IS FOR HUMAN OCCUPANCY.

BE IT ENACTED BY THE HAINES BOROUGH ASSEMBLY:

Section 1. Classification. This ordinance is of a general and permanent nature and the adopted amendment shall become a part of the Haines Borough Code.

Section 2. Severability. If any provision of this ordinance or any application thereof to any person or circumstance is held to be invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

Section 3. Effective Date. This ordinance shall become effective immediately upon adoption.

Section 4. Purpose. This ordinance amends Title 18 Section 18.80.030 to require a conditional use approval for the construction of a building within 15 feet of an adjacent building if one or both of the buildings is for human occupancy.

NOTE: **Bolded/UNDERLINED** ITEMS ARE TO BE ADDED
~~STRIKETHROUGH~~ ITEMS ARE DELETED

18.80.030 Setbacks and height.

The distance between unattached buildings must be 15 feet unless approved as a conditional use by the planning commission. Building separation is intended for public safety; fire-related concerns must meet the approval of both the state fire marshal and local fire department, where applicable. **The 15-foot separation between unattached buildings applies only when at least one of the buildings is for human occupancy.**



**Haines Borough
Assembly Agenda Bill**

Agenda Bill No.: 13-284
Assembly Meeting Date: 6/25/13

Business Item Description:	Attachments:
Subject: Allow on-street parking to count toward parking space requirements when approved by Planning Commission	1. Ordinance 13-05-329 2. Planning Commission Recommendation 3. Memo from Mayor Scott dated 6/20/13
Originator: Planning Commission	
Originating Department:	
Date Submitted: 5/10/13	

Full Title/Motion:
 Motion: Adopt Ordinance 13-05-329.

Administrative Recommendation:

Fiscal Impact:

Expenditure Required	Amount Budgeted	Appropriation Required
\$	\$	\$

Comprehensive Plan Consistency Review:

Comp Plan Policy Nos.:	Consistent: <input type="checkbox"/> Yes <input type="checkbox"/> No
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Summary Statement:

Small lots in the downtown area make it difficult for commercial development to meet the parking requirements. Allowing adjacent street parking to count toward the parking requirement may help remedy this problem. This would require Planning Commission approval.

This ordinance was amended during it's first public hearing on 6/1/13 to remove the words "short term".

Referral:

Sent to:	Date:
Recommendation:	Meeting Date:
Refer to:	

Assembly Action:

Workshop Date(s):	Public Hearing Date(s): 6/11/13 & 6/25/13
Meeting Date(s): 5/28, 6/11, 6/25/13	Tabled to Date:

**AN ORDINANCE OF THE HAINES BOROUGH AMENDING BOROUGH CODE
TITLE 18, SECTION 18.80.040 TO ALLOW ADJACENT ON-STREET PARKING TO
COUNT TOWARD THE PARKING REQUIREMENT.**

BE IT ENACTED BY THE HAINES BOROUGH ASSEMBLY:

Section 1. Classification. Section 4 of this ordinance is of a general and permanent nature and the adopted amendment shall become a part of the Haines Borough Code.

Section 2. Severability. If any provision of this ordinance or any application thereof to any person or circumstance is held to be invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

Section 3. Effective Date. This ordinance is effective upon adoption.

Section 4. Amendment of Section 18.80.040. Section 18.80.040 of the Haines Borough Code of Ordinances is amended to read as follows:

NOTE: **Bolded**/UNDERLINED ITEMS ARE TO BE ADDED

18.80.040 Parking.

Off-street parking facilities must be provided as hereinafter specified. Off-street parking facilities for residential uses must be on the same lot with the building that they are required to serve. Off-street parking facilities for nonresidential uses must be on the same lot or on a lot of common ownership within 200 feet of the building they serve. Off-premises parking must be dedicated by signage, limited to two one-and-one-half by three-foot signs, and covenants must be included in the deeds for both properties stating that the required parking must continue to be so dedicated as long as the building these parking spaces serve exists. An exception to this regulation may be granted only per subsection (A)(5) of this section.

All parking, except that which serves residences, shall be arranged so that ingress and egress are possible without backing over a sidewalk area or onto a collector or larger street designation.

Turning and maneuvering space shall be located entirely on private property; provided, that the usable portion of an alley may be credited as turning and maneuvering space. In the case of two or more uses on the same lot, the total requirement for off-street parking facilities is the sum of the requirements for the several uses computed separately. Changes of use with an increase in gross floor area must provide for parking, loading and storage area in conformance with this section. The parking, loading and storage space requirements for uses not listed may be established under the provisions of a conditional use permit under Chapter 18.50 HBC.

Parking areas shall connect conveniently to surrounding pedestrian facilities and where practicable, shall be landscaped. The manager, subject to commission review, may require, as a condition of any permit issued, that buffering be provided. Buffering may consist of a fence, natural vegetation, or other aesthetically pleasing construction.

A. Minimum Standards. Parking required for a use must conform to the following:

1. All parking spaces shall be located far enough within the lot to prevent any portion of a parked car from extending over an adjoining lot or over a public right-of-way or sidewalk.

2. Excluding residential uses of less than five dwelling units and temporary uses, all required off-street parking areas, including ingress and egress routes, shall be surfaced with a durable gravel surface approved by the borough that is designed to control dust and be able to bear the weight of expected traffic.

3. Multi-dwelling uses of more than four dwelling units shall be required to provide a storage area for boats, recreational vehicles, off-road vehicles and trailers. This storage area

must be 200 square feet for each three parking spaces. The storage area may be located on another lot of common ownership if the lot is located within 200 feet of the lot with the principal use.

4. Handicapped spaces shall be 13 feet wide. (See Table of Parking Requirements.)

5. A single parking area may be used to service more than one use if the normal hours of operation of the uses do not overlap. If a single parking area is so used, additional parking may be required as a condition of continued occupancy at any time the hours of operation of the establishments are altered to run concurrently. Before joint use is allowed, a contractual agreement setting out the terms of the use must be created by the joint users and approved as a use permit by the manager.

6. The provision and maintenance of off-street loading, snow storage and other storage areas is a continuing obligation and joint responsibility of the owner and occupants. Each off-street loading space must be not less than 30 feet by 12 feet, have an unobstructed height of at least 14 feet, six inches and be made permanently available for such purposes. These areas are required as follows.

a. Nonresidential development over 5,000 square feet GFA must provide one loading space for each 20,000 square feet or less GFA. This requirement may be waived by the planning commission if property area constraints make this requirement impractical or if deemed unnecessary for the type of development.

b. A snow storage area of 25 square feet for each parking space shall be provided for any use except single dwelling units and duplexes. Snow storage areas must be designed to minimize drainage and runoff problems and not overload or impair the borough storm drainage system. The required snow storage area may be reduced by the manager in consultation with the public works superintendent.

7. Pick-up areas for taxis, buses and other vehicles may be required for uses that customarily need such services; including hotels, docks, major tourist facilities, auditoriums, theaters, schools, churches and other places of public gathering.

8. Legal, on-street parking spaces adjacent to commercial property being developed may be considered by the planning commission for parking and counted toward meeting the parking requirement in 18.80.040(B).

B. Parking Chart. The minimum number of off-street parking spaces required and their dimensions are set out in the following tables:

Parking Tables	
Table of Parking Requirements Uses ↓	Spaces Required (GFA = Gross Floor Area) Plus one space for each employee on the largest work-shift
Single-unit, duplex or multi-unit uses	2 spaces per dwelling unit
Motels, hotels, bed and breakfast	1 per guest room up to 3 rooms + 2 for residence. For 3 rooms and over, 2 spaces for every three guest rooms.
Hospitals, group homes, and other overnight health care facilities	1 per 4 beds based on maximum capacity or 1 per 300 sq. ft. GFA
Churches, auditoriums, theaters, mortuary and similar places of assembly	1 per 3 seats based on maximum capacity

Parking Tables				
Table of Parking Requirements Uses ↓	Spaces Required (GFA = Gross Floor Area) Plus one space for each employee on the largest work-shift			
Warehouses, storage and wholesale business	1 per each 1,000 sq. ft. GFA but not less than 4 spaces			
Self storage mini-warehouses	1 per each 25 storage units			
Industrial uses	1 per each employee + 2 for visitors			
Restaurants, bars	1 per 150 sq. ft. GFA or 1 for every 3 seats, based on maximum capacity, whichever is greater			
Offices/other commercial uses For solely retail use, GFA shall include only the retail selling and display area.	1 per 500 sq. ft. GFA			
Handicapped Parking:				
Total Parking Spaces in Lot ↓	Accessible Spaces Required ↓			
1 to 20	1			
Each additional 10 spaces	1			
Table of Minimum Parking Space Dimensions (Stall length is measured perpendicular to curb.)				
Angle →	30 degrees	45 degrees	60 degrees	90 degrees
STANDARD				
Aisle Width	11 feet	13 feet	18 feet	25 feet
Stall Length	18 feet	20 feet	21 feet	22 feet
Stall Width	10 feet	10 feet	10 feet	10 feet
HANDICAP				
Aisle Width	14 feet	16 feet	21 feet	28 feet
Stall Length	21 feet	23 feet	24 feet	25 feet
Stall Width	13 feet	13 feet	13 feet	13 feet

Haines Borough
Ordinance No. 13-05-329
Page 4 of 4

ADOPTED BY A DULY CONSTITUTED QUORUM OF THE HAINES BOROUGH ASSEMBLY THIS ____
DAY OF _____, 2013.

ATTEST:

Stephanie Scott, Mayor

Julie Cozzi, MMC, Borough Clerk

Date Introduced:	05/28/13
Date of First Public Hearing:	06/11/13
Date of Second Public Hearing:	06/25/13

Haines Borough
**BOROUGH ASSEMBLY
ACTION REQUEST**

DATE: May 10, 2013

TO: Borough Assembly

FROM: Haines Borough Planning Commission

PLANNING COMMISSION ACTION: M/S Venables moved to “recommend the Assembly amend Haines Borough Code **18.80.040** to allow adjacent on-street parking to count toward the parking requirement.” The motion passed 6 to 1 with Turner opposed.

RATIONALE: Small lots in the downtown area make it difficult for commercial development to meet the parking requirements. Allowing adjacent street parking to count toward the parking requirement may help remedy this problem.

PLANNING COMMISSION REQUEST: for the Borough Assembly to amend HBC **18.80.040 Parking (A)** to add:

8. Legal, on-street parking spaces adjacent to commercial property being developed may be considered by the planning commission for short term parking and counted toward meeting the parking requirement in 18.80.040(B).

SUBMITTED BY _____



(signature)

Rob Goldberg
Planning Commission Chairman

HAINES BOROUGH, ALASKA
ORDINANCE No. xx-xx-xxx

Draft

AN ORDINANCE OF THE HAINES BOROUGH AMENDING HAINES BOROUGH CODE TITLE 18 SECTION 18.80.040 TO ALLOW ADJACENT ON-STREET PARKING TO COUNT TOWARD THE PARKING REQUIREMENT.

BE IT ENACTED BY THE HAINES BOROUGH ASSEMBLY:

Section 1. Classification. This ordinance is of a general and permanent nature and the adopted amendment shall become a part of the Haines Borough Code.

Section 2. Severability. If any provision of this ordinance or any application thereof to any person or circumstance is held to be invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

Section 3. Effective Date. This ordinance shall become effective immediately upon adoption.

Section 4. Purpose. This ordinance amends Title 18 Section 18.80.040 to allow adjacent on-street parking to count toward the parking requirement.

NOTE: **Bolded/UNDERLINED** ITEMS ARE TO BE ADDED
~~STRIKETHROUGH~~ ITEMS ARE DELETED

18.80.040 Parking.

Off-street parking facilities must be provided as hereinafter specified. Off-street parking facilities for residential uses must be on the same lot with the building that they are required to serve. Off-street parking facilities for nonresidential uses must be on the same lot or on a lot of common ownership within 200 feet of the building they serve. Off-premises parking must be dedicated by signage, limited to two one-and-one-half by three-foot signs, and covenants must be included in the deeds for both properties stating that the required parking must continue to be so dedicated as long as the building these parking spaces serve exists. An exception to this regulation may be granted only per subsection (A)(5) of this section.

All parking, except that which serves residences, shall be arranged so that ingress and egress are possible without backing over a sidewalk area or onto a collector or larger street designation.

Turning and maneuvering space shall be located entirely on private property; provided, that the usable portion of an alley may be credited as turning and maneuvering space. In the case of two or more uses on the same lot, the total requirement for off-street parking facilities is the sum of the requirements for the several uses computed separately. Changes of use with an increase in gross floor area must provide for parking, loading and storage area in conformance with this section. The parking, loading and storage space requirements for uses not listed may be established under the provisions of a conditional use permit under Chapter 18.50 HBC.

Parking areas shall connect conveniently to surrounding pedestrian facilities and where practicable, shall be landscaped. The manager, subject to commission review, may require, as a condition of any permit issued, that buffering be provided. Buffering may consist of a fence, natural vegetation, or other aesthetically pleasing construction.

A. Minimum Standards. Parking required for a use must conform to the following:

1. All parking spaces shall be located far enough within the lot to prevent any portion of a parked car from extending over an adjoining lot or over a public right-of-way or sidewalk.
2. Excluding residential uses of less than five dwelling units and temporary uses, all required off-street parking areas, including ingress and egress routes, shall be surfaced with a durable gravel surface approved by the borough that is designed to control dust and be able to bear the weight of expected traffic.
3. Multi-dwelling uses of more than four dwelling units shall be required to provide a storage area for boats, recreational vehicles, off-road vehicles and trailers. This storage area must be 200 square feet for each three parking spaces. The storage area may be located on another lot of common ownership if the lot is located within 200 feet of the lot with the principal use.
4. Handicapped spaces shall be 13 feet wide. (See Table of Parking Requirements.)
5. A single parking area may be used to service more than one use if the normal hours of operation of the uses do not overlap. If a single parking area is so used, additional parking may be required as a condition of continued occupancy at any time the hours of operation of the establishments are altered to run concurrently. Before joint use is allowed, a contractual agreement setting out the terms of the use must be created by the joint users and approved as a use permit by the manager.
6. The provision and maintenance of off-street loading, snow storage and other storage areas is a continuing obligation and joint responsibility of the owner and occupants. Each off-street loading space must be not less than 30 feet by 12 feet, have an unobstructed height of at least 14 feet, six inches and be made permanently available for such purposes. These areas are required as follows.
 - a. Nonresidential development over 5,000 square feet GFA must provide one loading space for each 20,000 square feet or less GFA. This requirement may be waived by the planning commission if property area constraints make this requirement impractical or if deemed unnecessary for the type of development.
 - b. A snow storage area of 25 square feet for each parking space shall be provided for any use except single dwelling units and duplexes. Snow storage areas must be designed to minimize drainage and runoff problems and not overload or impair the borough storm drainage system. The required snow storage area may be reduced by the manager in consultation with the public works superintendent.
7. Pick-up areas for taxis, buses and other vehicles may be required for uses that customarily need such services; including hotels, docks, major tourist facilities, auditoriums, theaters, schools, churches and other places of public gathering.

8. Legal, on-street parking spaces adjacent to commercial property being developed may be considered by the planning commission for short term parking and counted toward meeting the parking requirement in 18.80.040(B).

Memorandum

Haines Borough
Office of the Mayor
103 Third Avenue S.
Haines, Alaska 99827
sscott@haines.ak.us
Voice (907) 766-2231 ext. 30

June 20, 2013

To: Haines Borough Assembly members

Cc: Haines Borough Planning Commission; Julie Cozzi, Borough Clerk;
Mark Earnest, Manager

From: Stephanie Scott, Mayor, Haines Borough

Subject: Ordinance 13-05-329: Amending Borough Code to allow adjacent on-street parking to count toward the parking requirement

I start from the premise that the streets belong to everyone...and to no one in particular with the exception of a person who has a mobility-related disability. Even then, a parking spot is not guaranteed. It is to be shared with others of that same class of users. To date, public policy in the Haines Borough has supported the "public" concept of roads, sometimes demonstrated by installing time-limited parking in high-use areas; other times demonstrated by installing no-parking signs if parked cars would pose a hazard to other drivers. The Borough also understands that accessible, well-maintained streets and commerce go hand in hand.

So I am uncomfortable with the proposition contained in 13-05-329 that some property owners get to count publicly owned and maintained real estate (i.e. "roads") toward the fulfillment of a parking requirement. In addition to the specter of privatizing public property, the ordinance poses the additional complexity of setting the Planning Commission up as a broker of these spaces. The rules governing the allocation are not stipulated. I fear that the ordinance, as written, is a recipe for accusations of favoritism. Regardless of the foundation for such accusations, they will have to be heard.

I understand that previous developers surveyed and sold, and planners accepted, "small lots." These small lots are now trying to accommodate bigger 21st century buildings and vehicles. In many cases, size of building corresponds to the opportunity to increase commerce. I am "for" increasing commerce. Stringent adherence to the parking requirements in code can be seen as a deterrent to commerce. I don't want to deter commerce, but I don't want to erode the "public-

ness” of our streets either, giving way to a potential firestorm of controversy of who has access to what parking space when.

I acknowledge that we have a parking problem in our commercial cores (downtown and Port Chilkoot). I think that 13-05-329 will create more problems than it solves. And because it allocates public space to accommodate a legal obligation stipulated for developers, I think it is mis-guided public policy.

What’s the alternative if it isn’t acceptable to enforce current policy – which would require developers to adjust the size of their development in order to accommodate parking? The parking provisions in HBC 18.80.040 require developers to supply a certain level of off-street parking to accommodate the presumed increase in traffic that will be created by the facility. If these levels are now found to be too constrictive, then I prefer either of these long term solutions as alternatives to 13-05-329:

- reduce our formulas by one parking space per category of development - mindful of the implications: more vehicles would be forced on to the streets for parking; thus, in all probability the municipality would need to identify and enforce more time-limited parking on key streets.
- create municipal public parking for downtown (use some of the old school site) and in Port Chilkoot (probably requires the purchase of a lot or two) and then, reduce the formula



Haines Borough
Assembly Agenda Bill

Agenda Bill No.: 13-285Assembly Meeting Date: 6/25/13**Business Item Description:**

Subject:
Adjust the definition of "Temporary Use" to be consistent with Temporary Residence Permit.

Originator:
Planning Commission

Originating Department:

Date Submitted:
5/10/13

Attachments:

1. Ordinance 13-05-330
2. Planning Commission Recommendation

Full Title/Motion:

Motion: Adopt Ordinance 13-05-330.

Administrative Recommendation:**Fiscal Impact:**

Expenditure Required
\$

Amount Budgeted
\$

Appropriation Required
\$

Comprehensive Plan Consistency Review:

Comp Plan Policy Nos.:

Consistent: Yes No

Summary Statement:

Per HBC 18.60.020 (H), temporary residence permits may be granted for a period of one year, and one six-month extension of the temporary residence permit may be granted by the Planning Commission as long as the developer is complying with all requirements. However, HBC 18.20.020 defines "temporary use" as a building or structure that is capable of being immediately moved, or a use which is for a limited time up to six months. The Planning Commission recommends revising the definition to increase six months to eighteen months.

Referral:

Sent to:

Date:

Recommendation:

Refer to:

Meeting Date:

Assembly Action:

Workshop Date(s):

Public Hearing Date(s): 6/11/13 & 6/25/13

Meeting Date(s): 5/28, 6/11, 6/25/13

Tabled to Date:

AN ORDINANCE OF THE HAINES BOROUGH AMENDING BOROUGH CODE TITLE 18, SECTION 18.20.020 TO ADJUST THE TIME LIMIT IN THE DEFINITION FOR "TEMPORARY USE" TO BE CONSISTENT WITH THE TIME PERIOD FOR TEMPORARY RESIDENCE PERMITS IN SECTION 18.60.020.

BE IT ENACTED BY THE HAINES BOROUGH ASSEMBLY:

Section 1. Classification. Section 4 of this ordinance is of a general and permanent nature and the adopted amendment shall become a part of the Haines Borough Code.

Section 2. Severability. If any provision of this ordinance or any application thereof to any person or circumstance is held to be invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

Section 3. Effective Date. This ordinance is effective upon adoption.

Section 4. Amendment of Section 18.20.020. Section 18.20.020 of the Haines Borough Code of Ordinances is amended to read as follows:

NOTE: **Bolded**/UNDERLINED ITEMS ARE TO BE ADDED
STRIKETHROUGH ITEMS ARE DELETED

HBC 18.20.020 Definitions - Regulatory

The definitions in this section are intended to be specific to this title. Any word or term not defined shall be used with the meaning of common or standard usage as determined by a current edition of Webster's Unabridged Dictionary. The following words shall have the following meanings for the purpose of this title:

...

"Temporary use" means a building or structure that is capable of being immediately moved, or a use which is for a limited time up to ~~six~~ **18** months.

...

ADOPTED BY A DULY CONSTITUTED QUORUM OF THE HAINES BOROUGH ASSEMBLY THIS ____ DAY OF _____, 2013.

ATTEST:

Stephanie Scott, Mayor

Julie Cozzi, MMC, Borough Clerk

Date Introduced: 05/28/13
Date of First Public Hearing: 06/11/13
Date of Second Public Hearing: 06/25/13

Haines Borough
**BOROUGH ASSEMBLY
ACTION REQUEST**

DATE: May 10, 2013

TO: Borough Assembly

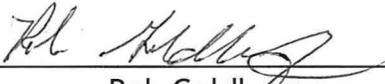
FROM: Haines Borough Planning Commission

PLANNING COMMISSION ACTION: M/S Turner moved to “recommend the Assembly amend Haines Borough Code **18.60.020** Definition of Temporary Use to consistent with Title 18 Section 18.60.020 Specific Approval Criteria of Temporary Residence.

RATIONALE: Per HBC 18.60.020 (H), temporary residence permits may be granted for a period of one year, and one six-month extension of the temporary residence permit may be granted by the Planning Commission as long as the developer is complying with all requirements. However, HBC 18.20.020 defines “temporary use” means a building or structure that is capable of being immediately moved, or a use which is for a limited time up to six months.

PLANNING COMMISSION REQUEST: for the Borough Assembly to amend HBC **18.20.020** to read:

“Temporary use” means a building or structure that is capable of being immediately moved, or a use which is for a limited time up to ~~six~~ **18** months.

SUBMITTED BY  (signature)

Rob Goldberg
Planning Commission Chairman

HAINES BOROUGH, ALASKA
ORDINANCE No. xx-xx-xxx

Draft

AN ORDINANCE OF THE HAINES BOROUGH AMENDING HAINES BOROUGH CODE TITLE 18 SECTION 18.20.020 DEFINITION OF TEMPORARY USE TO CONSISTENT WITH TITLE 18 SECTION 18.60.020 SPECIFIC APPROVAL CRITERIA OF TEMPORARY RESIDENCE.

BE IT ENACTED BY THE HAINES BOROUGH ASSEMBLY:

Section 1. Classification. This ordinance is of a general and permanent nature and the adopted amendment shall become a part of the Haines Borough Code.

Section 2. Severability. If any provision of this ordinance or any application thereof to any person or circumstance is held to be invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

Section 3. Effective Date. This ordinance shall become effective immediately upon adoption.

Section 4. Purpose. This ordinance amends Title 18 Section 18.80.030 to require a conditional use approval for the construction of a building within 15 feet of an adjacent building if one or both of the buildings is for human occupancy.

NOTE: **Bolded/UNDERLINED** ITEMS ARE TO BE ADDED
~~STRIKETHROUGH~~ ITEMS ARE DELETED

HBC 18.60.020 Specific approval criteria (H)

H. Temporary residence permits may be granted for a period of one year. One six-month extension of the temporary residence/trailer permit may be granted by the planning commission as long as the developer is complying with all requirements. Any temporary residence, trailer, recreational vehicle or mobile home being occupied by a person must be connected to public water and sewer and may be required to connect to the local electrical service. Garbage disposal facilities are required. A minimum of one off-street parking space will be required for a temporary residence. The area surrounding the temporary residence/trailer shall be kept in a clean and sanitary condition.

HBC 18.20.020 Definitions:

“Temporary use” means a building or structure that is capable of being immediately moved, or a use which is for a limited time up to ~~six~~ **18** months.



Haines Borough
Assembly Agenda Bill

Agenda Bill No.: 13-281
Assembly Meeting Date: 6/25/13

Business Item Description:	Attachments:
Subject: Amend Harbor Fee Schedule to clarify winter moorage rates	1. Ordinance 13-05-331
Originator: Harbormaster	
Originating Department: Ports & Harbors	
Date Submitted: 5-2-13	

Full Title/Motion:
Motion: Adopt Ordinance 13-05-331.

Administrative Recommendation:

Fiscal Impact:

Expenditure Required	Amount Budgeted	Appropriation Required
\$	\$	\$

Comprehensive Plan Consistency Review:

Comp Plan Policy Nos.:	Consistent: <input type="checkbox"/> Yes <input type="checkbox"/> No
------------------------	--

Summary Statement:
The harbormaster recommends an amendment to the Harbor Fee Schedule to add "to qualify vessel must be up-to-date on all Port and Harbor Fees and pay for the winter moorage rate in advance" under Transient Boat Moorage Fees and to strike the winter rate language from the Permanent Open Moorage Vessels section. Permanent open moorage is paid annually, not seasonally.

Referral:

Sent to:	Date:
Recommendation:	Refer to: Meeting Date:

Assembly Action:

Workshop Date(s):	Public Hearing Date(s): 6/11/13 & 6/25/13
Meeting Date(s): 5/28, 6/11, and 6/25/13	Tabled to Date:

An ordinance of the Haines Borough adopting, by ordinance, a revised fee schedule that clarifies qualification for winter moorage rates.

WHEREAS, the Haines Borough owns and operates the Portage Cove Harbor and the Letnikof Cove Harbor; and

WHEREAS, the Borough Assembly establishes rates, fees, and penalties for Haines Borough harbor facilities; and

WHEREAS, Haines Borough Code, section 2.12.020(B), requires fines and penalties be provided by ordinance,

NOW THEREFORE BE IT ENACTED, by the Haines Borough Assembly, that the following Harbor Fee Schedule is hereby adopted by ordinance.

Section 1. Classification. This ordinance is not of a general and permanent nature and shall not become a part of the Haines Borough Code of Ordinances.

Section 2. Severability. If any provision of this ordinance or any application thereof to any person or circumstance is held to be invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

Section 2. Effective Date. This ordinance shall become effective immediately upon adoption.

Section 3. Purpose. To adopt, via ordinance, the following revised Harbor Fee Schedule to clarify qualification for winter moorage rates:

Haines Borough – Harbor Fee Schedule

(See HBC Title 16 for regulations and more information)

1. Transient Boat Moorage Fees

Short-term (less than two weeks)	\$.50 per lineal foot per day*
Long-term (two weeks and longer)	\$5.00 per lineal foot per month*

Winter Rates – From October 1 through March 31, transient moorage vessels qualify for winter rates: one-half the amount that the vessel would ordinarily be charged. **To qualify vessel must be up-to-date on all Port and Harbor Fees and pay for the winter moorage rate in advance.**

* Transient moorage which must be invoiced will be charged at twice the normal rate (HBC 16.16.050).

2. Boat Launch Ramp Use Fees

Annual Launch Ramp Sticker – Recreational Vessel	\$60.00 per trailer per year
Daily Launch Ramp Use Fee	\$15.00 per trailer per day
Non Compliance Fee	\$60.00 per violation

3. Live-Aboard Fees

1 to 14 days	No charge other than the regular moorage rate
Over 14 days (prohibited October 15 th to April 1 st)	\$70.00 per month in addition to the regular moorage rate

4. Conducting Business from Any Vessel in the Harbor

Transient Vessel	\$10.00 per day (plus a borough business license and collection of sales tax)
Permanent Stall Vessels and Permanent Open Moorage Vessels	\$0 per day but must have a borough business license & collect sales tax
Non Compliance Fee	\$50.00 per violation

5. Boat Houses, Floats, Scows, Barges, Pile Drivers, and Dredges

These vessels are allowed only on a temporary basis at the harbormaster's discretion and, when allowed, are assessed a fee twice the rate of other vessels. Note: Living aboard is not allowed on these vessels and watercraft.

6. Seaplane Moorage Fees

Open Moorage	Fee
Less than 3 hours	No charge
3 to 24 hours	\$15.00
Each additional 24-hour period or fraction thereof	\$15.00

7. Electrical Connection and Service Rates

Connection Costs (permanent stalls or open moorage) <i>Paid to the local utility</i>	Actual cost of connection (boat owner makes the arrangements with the local utility and pays them directly)
Service Fee (all vessels utilizing electrical service) <i>Paid to the borough</i>	\$10.00 per day
Service Fee (utilizing 240 service)	\$20.00 per day
Annual Service Maintenance fee (if Electrical service is activated)	\$15.00 annual

8. Harbor Crane Use

Annual Crane Use Permit (not available for transient vessels)	\$50.00 per year
Transient Vessels	\$20.00 per hour

9. Letnikof Cove Harbor Moorage

Special Joint-Use Permit Fees

(only for boat harbor stall renters who are paid current)

Length of Vessel	Annual Fee
Up to 24 feet	\$75.00
25 to 40 feet	\$100.00
41 to 60 feet	\$125.00
61 to 80 feet	\$150.00
Over 80 feet	\$200.00

Regular Use Permit Fees

(for vessels without a boat harbor stall OR stall renters who are not paid current)

Short-term (less than two weeks)	\$.50 per lineal foot per day
Long-term (two weeks and longer)	\$5.00 per lineal foot per month

10. Miscellaneous Fees

Grid Use	\$15.00 min or \$.50 per ft per tide cycle
Harbor Staff Labor (8-5 Monday-Saturday)	\$40.00 per hour (one hour minimum)
Harbor Staff Labor (After regular hours)	\$80.00 per hour (one hour minimum)
Tie-up Fee	\$20.00 per time plus cost of line (Harbor staff time not included)
Fee to Move a Boat	\$50.00 per time
Waitlist Fee	\$25.00 (first year) and \$10.00 per year thereafter
Seniority Transfer list Fee	\$10.00 per year
Pump Fee	\$20.00 per hour
Portable Electric Generator Fee	\$20.00 per day
Upland Storage Fee	\$.20 per square foot per month

11. Hazardous Waste Disposal

Motor Oil	Free
Hydraulic Oil	Free
Diesel	Free
Gasoline	Free
Antifreeze	Free
Oil filters and Oiled Rags	Free
Paint	Free
Hazardous Materials Not Listed From Vessel	Free

12. Penalties for Violations

First Violation	\$50.00
Second Violation	\$100.00
Third Violation And Any there After	\$150.00

13. Permanent Open Moorage Vessels

Long-term vessels with no permanent stall that meet the conditions outlined in HBC 16.16.105(A) shall qualify for rates equal to the regular moorage rate for their size vessel (see #14 - *Annual Moorage Rates*). If the conditions are not met, transient rates apply (see #1 – *Transient Boat Moorage Fees*).

Permanent stall renters that have a second commercial vessel and meet the conditions outlined in HBC 16.16.105(A) shall qualify for rates equal to the regular moorage rate for their size vessel (see #14 - *Annual Moorage Rates*) provided the permanent stall fee is paid. If the conditions are not met, transient rates apply (see #1 – *Transient Boat Moorage Fees*), and from April 1st through September 30th these vessels shall be charged the long-term transient moorage rate.

~~**Winter Rates** – From October 1 through March 31, permanent open moorage vessels qualify for winter rates: one-half the amount that the vessel would ordinarily be charged.~~

14. Annual Moorage Rates

Length (feet)	10/1/12 to 9/30/13	10/1/13 to 9/30/14	10/1/14 to 9/30/15	10/1/15 to 9/30/16	10/1/16 to 9/30/17	10/1/17 to 9/30/18
	(\$18/ft up to 40 ft; \$24/ft over 40 ft)	(\$19/ft up to 40 ft; \$25/ft over 40 ft)	(\$20/ft up to 40 ft; \$26/ft over 40 ft)	(\$21/ft up to 40 ft; \$27/ft over 40 ft)	(\$22/ft up to 40 ft; \$28/ft over 40 ft)	(\$23/ft up to 40 ft; \$29/ft over 40 ft)
15	\$270	\$285	\$300	\$315	\$330	\$345
16	\$288	\$304	\$320	\$336	\$352	\$368
17	\$306	\$323	\$340	\$357	\$374	\$391
18	\$324	\$342	\$360	\$378	\$396	\$414
19	\$342	\$361	\$380	\$399	\$418	\$437
20	\$360	\$380	\$400	\$420	\$440	\$460
21	\$378	\$399	\$420	\$441	\$462	\$483
22	\$396	\$418	\$440	\$462	\$484	\$506
23	\$414	\$437	\$460	\$483	\$506	\$529
24	\$432	\$456	\$480	\$504	\$528	\$552
25	\$450	\$475	\$500	\$525	\$550	\$575
26	\$468	\$494	\$520	\$546	\$572	\$598
27	\$486	\$513	\$540	\$567	\$594	\$621
28	\$504	\$532	\$560	\$588	\$616	\$644
29	\$522	\$551	\$580	\$609	\$638	\$667
30	\$540	\$570	\$600	\$630	\$660	\$690
31	\$558	\$589	\$620	\$651	\$682	\$713
32	\$576	\$608	\$640	\$672	\$704	\$736
33	\$594	\$627	\$660	\$693	\$726	\$759
34	\$612	\$646	\$680	\$714	\$748	\$782
35	\$630	\$665	\$700	\$735	\$770	\$805
36	\$648	\$684	\$720	\$756	\$792	\$828
37	\$666	\$703	\$740	\$777	\$814	\$851
38	\$684	\$722	\$760	\$798	\$836	\$874

Haines Borough
Ordinance No. 13-05-331
Page 5 of 6

Length (feet)	10/1/12 to 9/30/13 (\$18/ft up to 40 ft; \$24/ft over 40 ft)	10/1/13 to 9/30/14 (\$19/ft up to 40 ft; \$25/ft over 40 ft)	10/1/14 to 9/30/15 (\$20/ft up to 40 ft; \$26/ft over 40 ft)	10/1/15 to 9/30/16 (\$21/ft up to 40 ft; \$27/ft over 40 ft)	10/1/16 to 9/30/17 (\$22/ft up to 40 ft; \$28/ft over 40 ft)	10/1/17 to 9/30/18 (\$23/ft up to 40 ft; \$29/ft over 40 ft)
39	\$702	\$741	\$780	\$819	\$858	\$897
40	\$960	\$760	\$800	\$840	\$880	\$920
41	\$984	\$1,025	\$1,066	\$1,107	\$1,148	\$1,189
42	\$1,008	\$1,050	\$1,092	\$1,134	\$1,176	\$1,218
43	\$1,032	\$1,075	\$1,118	\$1,161	\$1,204	\$1,247
44	\$1,056	\$1,100	\$1,144	\$1,188	\$1,232	\$1,276
45	\$1,080	\$1,125	\$1,170	\$1,215	\$1,260	\$1,305
46	\$1,104	\$1,150	\$1,196	\$1,242	\$1,288	\$1,334
47	\$1,128	\$1,175	\$1,222	\$1,269	\$1,316	\$1,363
48	\$1,152	\$1,200	\$1,248	\$1,296	\$1,344	\$1,392
49	\$1,176	\$1,225	\$1,274	\$1,323	\$1,372	\$1,421
50	\$1,200	\$1,250	\$1,300	\$1,350	\$1,400	\$1,450
51	\$1,224	\$1,275	\$1,326	\$1,377	\$1,428	\$1,479
52	\$1,248	\$1,300	\$1,352	\$1,404	\$1,456	\$1,508
53	\$1,272	\$1,325	\$1,378	\$1,431	\$1,484	\$1,537
54	\$1,296	\$1,350	\$1,404	\$1,458	\$1,512	\$1,566
55	\$1,320	\$1,375	\$1,430	\$1,485	\$1,540	\$1,595
56	\$1,344	\$1,400	\$1,456	\$1,512	\$1,568	\$1,624
57	\$1,368	\$1,425	\$1,482	\$1,539	\$1,596	\$1,653
58	\$1,392	\$1,450	\$1,508	\$1,566	\$1,624	\$1,682
59	\$1,416	\$1,475	\$1,534	\$1,593	\$1,652	\$1,711
60	\$1,440	\$1,500	\$1,560	\$1,620	\$1,680	\$1,740
61	\$1,464	\$1,525	\$1,586	\$1,647	\$1,708	\$1,769
62	\$1,488	\$1,550	\$1,612	\$1,674	\$1,736	\$1,798
63	\$1,512	\$1,575	\$1,638	\$1,701	\$1,764	\$1,827
64	\$1,536	\$1,600	\$1,664	\$1,728	\$1,792	\$1,856
65	\$1,560	\$1,625	\$1,690	\$1,755	\$1,820	\$1,885
66	\$1,584	\$1,650	\$1,716	\$1,782	\$1,848	\$1,914
67	\$1,608	\$1,675	\$1,742	\$1,809	\$1,876	\$1,943
68	\$1,632	\$1,700	\$1,768	\$1,836	\$1,904	\$1,972
69	\$1,656	\$1,725	\$1,794	\$1,863	\$1,932	\$2,001
70	\$1,680	\$1,750	\$1,820	\$1,890	\$1,960	\$2,030
71	\$1,704	\$1,775	\$1,846	\$1,917	\$1,988	\$2,059
72	\$1,728	\$1,800	\$1,872	\$1,944	\$2,016	\$2,088
73	\$1,752	\$1,825	\$1,898	\$1,971	\$2,044	\$2,117
74	\$1,776	\$1,850	\$1,924	\$1,998	\$2,072	\$2,146
75	\$1,800	\$1,875	\$1,950	\$2,025	\$2,100	\$2,175
76	\$1,824	\$1,900	\$1,976	\$2,052	\$2,128	\$2,204

Haines Borough
Ordinance No. 13-05-331
Page 6 of 6

Length (feet)	10/1/12 to 9/30/13 (\$18/ft up to 40 ft; \$24/ft over 40 ft)	10/1/13 to 9/30/14 (\$19/ft up to 40 ft; \$25/ft over 40 ft)	10/1/14 to 9/30/15 (\$20/ft up to 40 ft; \$26/ft over 40 ft)	10/1/15 to 9/30/16 (\$21/ft up to 40 ft; \$27/ft over 40 ft)	10/1/16 to 9/30/17 (\$22/ft up to 40 ft; \$28/ft over 40 ft)	10/1/17 to 9/30/18 (\$23/ft up to 40 ft; \$29/ft over 40 ft)
77	\$1,848	\$1,925	\$2,002	\$2,079	\$2,156	\$2,233
78	\$1,872	\$1,950	\$2,028	\$2,106	\$2,184	\$2,262
79	\$1,896	\$1,975	\$2,054	\$2,133	\$2,212	\$2,291
80	\$1,920	\$2,000	\$2,080	\$2,160	\$2,240	\$2,320
81	\$1,944	\$2,025	\$2,106	\$2,187	\$2,268	\$2,349
82	\$1,968	\$2,050	\$2,132	\$2,214	\$2,296	\$2,378
83	\$1,992	\$2,075	\$2,158	\$2,241	\$2,324	\$2,407
84	\$2,016	\$2,100	\$2,184	\$2,268	\$2,352	\$2,436
85	\$2,040	\$2,125	\$2,210	\$2,295	\$2,380	\$2,465
86	\$2,064	\$2,150	\$2,236	\$2,322	\$2,408	\$2,494
87	\$2,088	\$2,175	\$2,262	\$2,349	\$2,436	\$2,523
88	\$2,112	\$2,200	\$2,288	\$2,376	\$2,464	\$2,552
89	\$2,136	\$2,225	\$2,314	\$2,403	\$2,492	\$2,581
90	\$2,160	\$2,250	\$2,340	\$2,430	\$2,520	\$2,610
91	\$2,184	\$2,275	\$2,366	\$2,457	\$2,548	\$2,639
92	\$2,208	\$2,300	\$2,392	\$2,484	\$2,576	\$2,668
93	\$2,232	\$2,325	\$2,418	\$2,511	\$2,604	\$2,697
94	\$2,256	\$2,350	\$2,444	\$2,538	\$2,632	\$2,726
95	\$2,280	\$2,375	\$2,470	\$2,565	\$2,660	\$2,755
96	\$2,304	\$2,400	\$2,496	\$2,592	\$2,688	\$2,784
97	\$2,328	\$2,425	\$2,522	\$2,619	\$2,716	\$2,813
98	\$2,352	\$2,450	\$2,548	\$2,646	\$2,744	\$2,842
99	\$2,376	\$2,475	\$2,574	\$2,673	\$2,772	\$2,871
100	\$2,400	\$2,500	\$2,600	\$2,700	\$2,800	\$2,900

ADOPTED BY A DULY CONSTITUTED QUORUM OF THE HAINES BOROUGH ASSEMBLY THIS _____ DAY OF _____, 2013.

Stephanie Scott, Mayor

ATTEST:

Julie Cozzi, MMC, Borough Clerk

Date Introduced: 05/28/13
Date of First Public Hearing: 06/11/13
Date of Second Public Hearing: 06/25/13



Haines Borough
Assembly Agenda Bill

Agenda Bill No.: 13-275
Assembly Meeting Date: 6/25/13

Business Item Description:	Attachments:
Subject: Change the way Assembly Members and School Board Members are elected.	1. Ordinance 13-05-327 2. Attorney Memo 3. Two possible amendments to Effective Date section
Originator: Assembly (draft ordinance by D.Schnabel and J.Cozzi)	
Originating Department:	
Date Submitted: 5-6-13	

Full Title/Motion:
Motion: Adopt Ordinance 13-05-327.

Administrative Recommendation:

Fiscal Impact:		
Expenditure Required	Amount Budgeted	Appropriation Required
\$	\$	\$

Comprehensive Plan Consistency Review:	
Comp Plan Policy Nos.:	Consistent: <input type="checkbox"/> Yes <input type="checkbox"/> No

Summary Statement:

This ordinance is in response to one of the goals in the assembly's 2012-13 Strategic Plan: "Begin Investigation into New Approach for Election of Assembly Members." The draft includes the school board members in this new approach. Assembly Member Schnabel worked with the borough clerk to prepare this draft. If it is adopted, it will require Dept of Justice (DOJ) preclearance.

The borough attorney has advised that, while there would be some risk, the clerk's office could proceed with candidate filing and ballot preparation prior to DOJ preclearance provided the election does not take place until that has been received. Any risk could be removed if the assembly decided to make the change effective with the 2014 election. It is the assembly's choice which way to proceed.

Referral:

Sent to: Government Affairs & Services Committee	Date: 5/14/13
Recommendation:	Refer to: Meeting Date: 5/23/13

Assembly Action:

Workshop Date(s):	Public Hearing Date(s): 6/11 & 6/25/13
Meeting Date(s): 5/14, 5/28, 6/11, 6/25/13	Tabled to Date:

AN ORDINANCE OF THE HAINES BOROUGH AMENDING BOROUGH CODE TITLE 2, SECTIONS 2.08.010, 2.68.140, 2.68.200, AND 2.68.510 TO ALLOW FOR ELECTION OF ASSEMBLY AND SCHOOL BOARD MEMBERS THROUGH SINGLE LISTS OF CANDIDATES.

BE IT ENACTED BY THE HAINES BOROUGH ASSEMBLY:

Section 1. Classification. This ordinance is of a general and permanent nature and the adopted amendments shall become a part of the Haines Borough Code.

Section 2. Severability. If any provision of this ordinance or any application thereof to any person or circumstance is held to be invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

Section 3. Effective Date. In accordance with the Voting Rights Act of 1965, 42 U.S.C. § 1973 et. seq., following submission to the U.S. Department of Justice for preclearance, this ordinance shall become effective upon notification of a decision not to object from the U.S. Attorney General, or if the U.S. Attorney General fails to interpose an objection to these changes to the Borough election code, not sooner than sixty (60) days following preclearance submission pursuant to 28 C.F.R. § 51.42.

Section 4. Amendment of Section 2.08.010. Section 2.08.010 of the Haines Borough Code of Ordinances is amended to read as follows:

NOTE: **Bolded**/UNDERLINED ITEMS ARE TO BE ADDED
STRIKETHROUGH ITEMS ARE DELETED

2.08.010 Assembly members – Election number and ~~seat designation terms~~.

There shall be an assembly of six members, all of which shall be elected at large for three-year terms. ~~For the purposes of election only, each assembly position shall be designated by seat, with the initial term of each seat being as follows:~~

Seat A	Seat B	Seat C
2003	2002	2002
2006	2004	2005
Seat D	Seat E	Seat F
2003	2002	2002
2006	2004	2005

Section 5. Amendment of Section 2.68.140. Section 2.68.140 of the Haines Borough Code of Ordinances is amended to read as follows:

NOTE: **Bolded**/UNDERLINED ITEMS ARE TO BE ADDED
STRIKETHROUGH ITEMS ARE DELETED

2.68.140 Declaration of candidacy and nomination petition.

A. Nomination. Any person qualified to serve in an elective office in the borough may have the person's name placed on the ballot as a candidate for elective office by filing a nomination petition and declaration of candidacy on forms prescribed and provided by the borough clerk. The nomination petition must be signed by no fewer than 10 voters qualified to vote in the borough. Signatures to a nomination petition need not all be appended to one page. To each separate

page of a petition shall be attached an affidavit of the person circulating the petition stating that each signature appended thereto was made in his or her presence and is the genuine signature of the person whose name it purports to be. To each nominating petition shall be attached declaration of candidacy stating that the candidate named in the petition consents to serve if elected to the ~~position~~ **office** for which the person is nominated. The nominating petition and declaration of candidacy must be filed with the borough clerk or a duly authorized representative not more than 87 and not less than 67 days prior to the general election. The candidate's signature on the declaration of candidacy shall be notarized.

The nominating petition shall be in substantially the following form:

Nominating Petition

We, the undersigned qualified voters of the Haines Borough, in the State of Alaska, hereby nominate and sponsor _____, who resides in the Haines Borough, for the office of _____, and ask that his/her name be placed on the October ____, 20__ General Election ballot.

We individually certify that we are qualified to vote in the named election.

Name Residence Address Date Signed

(Followed by at least 10 lines for signatures.)

The declaration of candidacy shall be in substantially the following form:

Declaration of Candidacy

I, _____, declare that I reside at _____ in the Haines Borough, Alaska; that I am a registered voter in the borough; that I have resided in the borough continuously for a period of at least one year immediately preceding the date of the election for which I am being nominated and meet the definition of resident in Borough Charter 18.09(J) and the residency standards in HBC 2.68.130(A)(2).

I declare myself a candidate for the office of _____ ~~for a term of _____ years,~~ and request that my name be printed upon the official ballot for the borough election to be held on the _____ day of _____, 20__.

SIGNATURE: _____

FOLLOWED BY A NOTARIZATION BLOCK.

Section 6. Amendment of Section 2.68.200. Section 2.68.200 of the Haines Borough Code of Ordinances is amended to read as follows:

NOTE: **Bolded**/UNDERLINED ITEMS ARE TO BE ADDED
STRIKETHROUGH ITEMS ARE DELETED

2.68.200 Form of ballot.

A. The clerk shall prepare all official ballots to facilitate fairness, simplicity, and clarity in the voting procedure, to reflect most accurately the intent of the voter, and to expedite the administration of elections.

B. The official ballot shall contain, at the top thereof, the words "Official Ballot" and the date of the election, whether such election is a general borough election or a special borough election, and such instructions to the voters as will enable them intelligently to mark their ballots for the candidates for whom they desire to vote, and to intelligently vote upon the questions which are submitted.

C. The clerk shall determine the size of the ballot, the type of print, necessary additional instruction notes to voters, and other similar matters of form not provided by law. The ballots shall be numbered in series to ensure simplicity and secrecy and to prevent fraud.

D. The names ~~title~~ of all offices ~~and candidates~~ to be voted upon **(mayor, assembly member, or school board member)** shall be printed on the ballot. The title of each office to be filled shall be followed by the printed names of the candidates for such office **in a single list arranged alphabetically**, below which shall be blank lines equal in number to the candidates to be elected to such office, upon which the voter may write the names of persons not listed on the ballot. The words "Vote for ___ only" with the appropriate number replacing the blank shall be placed before the list of candidates for each office. **Instruction notes shall state that offices will be filled by the candidates receiving the greatest number of votes exceeding 40%, and if terms are of different lengths, the candidate with the highest number of votes will be elected to the longest term.** The names of candidates shall be printed as they appear upon the nomination petitions filed with the borough clerk except that any honorary or assumed title or prefix shall be omitted. However, the candidate's name appearing on the ballot may include a nickname or familiar form of the proper name. ~~The names of candidates shall be arranged alphabetically. Provision shall be made for voting for a write-in candidate for each seat.~~

E. Following the offices and candidates there shall be placed on the ballot or on separate ballots as the clerk may determine, all propositions or questions to be voted upon. The words "Yes" and "No" shall be placed with the statement of each proposition or question for selection.

Section 7. Amendment of Section 2.68.510. Section 2.68.510 of the Haines Borough Code of Ordinances is amended to read as follows:

NOTE: **Bolded/UNDERLINED** ITEMS ARE TO BE ADDED
STRIKETHROUGH ITEMS ARE DELETED

2.68.510 Votes required to elect – Runoff elections.

If in a borough election **an office is not filled because** ~~no candidate receives~~ **received** ~~in excess of~~ **fewer than** 40 percent of the votes cast ~~for the respective office,~~ the **assembly borough** shall hold a runoff election between the candidates receiving the greatest number of votes for the office on the first Tuesday in November following the canvass and certification as in HBC 2.68.500. **There shall be two runoff candidates for each office to be filled.** Notice of the runoff election shall be published at least 10 days before the election date. The person**(s)** receiving the highest number of votes shall be elected ~~to the seat~~ following canvass and certification of the election as provided in HBC 2.68.500.

ADOPTED BY A DULY CONSTITUTED QUORUM OF THE HAINES BOROUGH ASSEMBLY THIS _____ DAY OF _____, 2013.

ATTEST:

Stephanie Scott, Mayor

Julie Cozzi, MMC, Borough Clerk

Date Introduced: 05/28/13
Date of First Public Hearing: 06/11/13
Date of Second Public Hearing: 06/25/13

BOYD, CHANDLER & FALCONER, LLP
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911 WEST EIGHTH AVENUE
ANCHORAGE, ALASKA 99501
TELEPHONE: (907) 272-8401
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bcf@bcf.us.com

MEMORANDUM

TO: Mark Earnest
Borough Manager

FROM: 
Brooks Chandler
Borough Attorney

RE: Preclearance Procedure for Change from Designated Seat System to “at large”
System for election of Haines Borough Officials

DATE: June 13, 2013

You have asked us to review and comment on the preclearance process under Section 5 of the Voting Rights Act as potentially applied to a change in the Borough election system from one in which candidates run for designated seats to one in which candidates run on a single slate. In our opinion there is sufficient time to obtain preclearance review of an ordinance effecting such a change before the 2013 municipal election. We believe preclearance review is virtually certain to result in a “non-objection” letter from DOJ. It is also possible the entire Voting Rights Act (“VRA”) preclearance process will be invalidated by the United States Supreme Court within the next 2 weeks. The Court typically issues a flurry of decisions before leaving town July 1, and the challenge to Section 5 of the VRA is one of the higher profile cases before the Court this term.

Based on these opinions, we do not view the preclearance review process as an impediment to effecting this change for the 2013 municipal election. This is not a guarantee. All risk of a delayed DOJ response and subsequent procedural challenge to the 2013 election would be eliminated if the effective date of such a change in the election process was set for the 2014 municipal election rather than the 2013 municipal election.

FACTS

The Borough currently has persons seeking elective office “declare” their intention to run for a specific seat on the Assembly designated by letter even though there are no geographical voting precincts in the Borough. All Borough registered voters may vote for all designated seats in any election. The Assembly is considering changing this process to one in

which all candidates for an elective office run on a single slate and the winners are those persons receiving the highest vote totals until the number of “winners” matches the number of seats up for election. The earliest such an ordinance would be adopted is projected to be June 25.

LAW

Section 5 of the Voting Rights Act¹ requires changes of the nature described above to be “precleared” with the United States Department of Justice. The relevant language of Section 5 is convoluted but in summary requires states subject to the Act who “enact or seek to administer” any change in a “standard, practice or procedure with respect to voting” to seek court review of the change in the United States District Court in Washington D.C. The Act mandates that “unless and until the court enters such judgment no person shall be denied the right to vote for failure to comply with such qualification, prerequisite, standard, practice, or procedure”. The Act provides an alternative to court review. This alternative is the much more common practice and requires the “chief legal officer or other appropriate official” of the municipality (frequently the clerk) to submit the change to the United States Attorney General. If “the Attorney General has not interposed an objection within sixty days after such submission” the change may be “administered” in the subsequent election.

Note the prohibition is on “seek to administer” an election change. In our opinion, “administering” an ordinance changing an election system from one of designated seats occurs only when the election is actually held. Therefore, a municipality can prepare for an election pending preclearance review (print ballots, issue election notices etc). The Borough is, however, prohibited under federal law from holding an election under a new voting system until DOJ has reviewed the change.

The end result of what is commonly known as “preclearance review” is a letter issued by DOJ which states the DOJ does not “object” to the change. A sample of such a letter is enclosed.

This preclearance process is detailed in federal regulation². Particular demographic information about a community must be submitted together with a copy of the changed election procedure that has officially been approved, a statement of the reasons for the change and notice of the date of the election at which the changes will first be administered. There is a sixty day review “clock” that begins running upon submission of the preclearance request to DOJ. Members of the public have an opportunity to submit comments to DOJ

¹ 42 USC 1973c(a).

² 28 CFR Part 51.

regarding the proposed change during this review period. Accordingly, a preclearance review request submitted by July 1 should result in DOJ approval by September 1. There is a standard procedure to request an expedited review process for changes that need to be implemented in less than 60 days. DOJ attempts to meet earlier deadlines but does not guarantee that will be the case.

We have been involved in the preclearance review process for a number of switches either to or from a designated seat system in municipalities which do not have designated geographical districts for their elected officials. Such changes have always been approved by DOJ even though this type of change is one that merits closer scrutiny than, for example, an ordinance scheduling a special election (which is also subject to the Section 5 preclearance review process). Based on this experience we believe the probability of DOJ preclearance approval is above 99%. Therefore we see little risk in preparing to conduct an election under a new ordinance pending receipt of preclearance review before October 1, 2013.

The only risk in attempting a change this close to the election is an unexpected DOJ delay or a procedural glitch in the submission of the request and accompanying information. My guesstimate of the probability of encountering such a delay is at less than 5%.

Our standard practice is to have the “effective date” section of such ordinances indicate the ordinance takes effect “upon adoption” but also states that the first election will not be held unless the DOJ preclearance process is completed prior to the election. This provides an “escape hatch” of postponing an election if preclearance review is not obtained. But in the meantime any new process for declaring candidacy and preparing for the election is implemented. If there is a delay, the borough either could proceed with the election and hope preclearance is obtained after the fact or postpone the election. Either action creates a risk of a procedural challenge to the election. Such a challenge would need to be brought in federal court and could theoretically result in a court order voiding an election.

Nevertheless, if the Borough wants to eliminate any risk of a procedural glitch in the 2013 municipal election making the change effective in 2014 is the safest way to proceed.

If you have any additional questions regarding this issue, please let me know.



U.S. Department of Justice
Civil Rights Division

TCH:RSB:JBG:SMC:par
DJ 166-012-3
2011-4588

Voting Section - NWB
950 Pennsylvania Avenue, NW
Washington, DC 20530

December 20, 2011

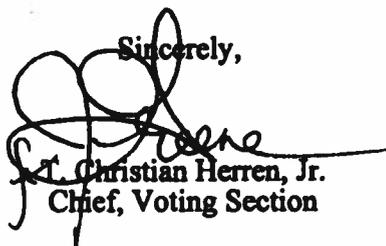
Brooks W. Chandler, Esq.
Boyd, Chandler & Falconer
911 West Eighth Avenue, Suite 302
Anchorage, Alaska 99501

Dear Mr. Chandler:

This refers to the procedures for conducting the October 4, 2011, special tax election, and the December 6, 2011, special general and tax election, for the City of Whittier, Alaska, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, 42 U.S.C. 1973c. We received your submission on October 28, 2011.

The Attorney General does not interpose any objection to the specified changes. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. Procedures for the Administration of Section 5 of the Voting Rights Act of 1965, 28 C.F.R. 51.41.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Christian Herren, Jr.", written over the typed name and title.

J. Christian Herren, Jr.
Chief, Voting Section

June 14, 2013

To: Borough Assembly

From: Julie Cozzi, Borough Clerk

In response to the memorandum received from the borough attorney, the assembly is asked to consider making an amendment motion to replace the existing Section 3 language with one of the following options:

Amendment Option #1, if Assembly wants 2013 implementation

Section 3. Effective Date. This ordinance shall become effective upon adoption, however, in accordance with the Voting Rights Act of 1965, 42 U.S.C. § 1973 et. seq. this ordinance shall be submitted to the U.S. Department of Justice for preclearance, and votes will not be tabulated at any election held in accordance with this ordinance unless prior to the election the Borough receives notification of a decision not to object from the U.S. Attorney General, or the U.S. Attorney General fails to interpose an objection to these changes to the Borough election code, not sooner than sixty (60) days following preclearance submission pursuant to 28 C.F.R. § 51.42.

Amendment Option #2, if Assembly wants 2014 implementation

Section 3. Effective Date. This ordinance shall become effective for the municipal election in 2014. In accordance with the Voting Rights Act of 1965, 42 U.S.C. § 1973 et. seq. this ordinance shall be submitted to the U.S. Department of Justice for preclearance, and votes will not be tabulated at any election held in accordance with this ordinance unless prior to the election the Borough receives notification of a decision not to object from the U.S. Attorney General, or the U.S. Attorney General fails to interpose an objection to these changes to the Borough election code, not sooner than sixty (60) days following preclearance submission pursuant to 28 C.F.R. § 51.42.

An ordinance of the Haines Borough amending Borough Code Chapter 10.44 to provide that parking violations are subject to a civil fine; provide for the content of a notice of violation of parking restrictions; and establish an administrative appeal process for parking violations.

WHEREAS, as of April 15, 2013, the Alaska Court System will only process citations issued directly to a person by a police officer; because parking citations are not issued directly to a person and may be issued by affixing a notice of violation to the vehicle, the Alaska Court System will no longer process those citations; and

WHEREAS, the Alaska Uniform Traffic Laws Act in AS 28.01.010(i) requires that municipalities establish an administrative appeal procedure for contesting parking citations that are not processed by the Alaska Court System; and

WHEREAS, the Haines Borough Code should be amended to bring current practice on the municipal parking citation process into line with state law and administrative procedures,

BE IT ENACTED BY THE HAINES BOROUGH ASSEMBLY:

Section 1. Classification. This ordinance is of a general and permanent nature and if adopted with or without amendment shall become a part of the Haines Borough Code.

Section 2. Severability. If any provision of this ordinance or any application thereof to any person or circumstance is held to be invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

Section 3. Effective Date. This ordinance is effective upon adoption.

Section 4. Amendment of Chapter 10.44. Chapter 10.44 of the Haines Borough Code is hereby repealed and re-enacted to read as follows:

NOTE: **Bolded/UNDERLINED** ITEMS ARE ADDITIONS TO THE CURRENT LANGUAGE
STRIKETHROUGH ITEMS ARE DELETIONS

**Chapter 10.44
PARKING**

10.44.010 Parking during snow removal.

It shall be unlawful for any person to park any vehicle or to allow any vehicle owned or under the person's control to continue to be parked on any public street during the time, day or night, that snow removal from such street is reasonably necessary for the movement of vehicular traffic without leaving in charge of such vehicle a person authorized, competent, and able to remove such vehicle. Falling snow, the presence of unremoved snow on such street, or the conduct of snow removal operations will be sufficient to indicate this prohibition. Any vehicle found parked during such periods on a public street where such snow removal is reasonably necessary may be removed by the chief of police or persons under the chief's control and such vehicle shall be impounded until the cost of such removal shall have been paid to the borough or to the person removing the vehicle at the direction of the chief of police or other persons under the chief's supervision and control. Any such charge remaining unpaid shall constitute a lien against said vehicle and shall be collectible in the same manner as personal property taxes. ~~Fine/Bail: \$25.00.~~

10.44.020 Prohibited 24-hour parking – Impounding vehicles.

It shall be unlawful for the owner or operator of any motor or other vehicle to leave, place, or park the same for 24 hours continuously on any street, highway, alley, walk, or other public thoroughfare within the townsite service area that is posted or otherwise marked by an appropriate sign, or by a combination of placed and painted signs, indicating 24-hour parking prohibited. Signs shall be required for enforcement of this section. In addition to the penalty provided for violation of this section, any vehicle found parked for 24 hours continuously as herein prohibited shall be removed and impounded by any police officer of the borough; and the removal and impounding costs shall be charged against the offending vehicle and paid before release of such vehicle. ~~Fine/Bail: \$25.00.~~

10.44.030 Time limit parking.

It shall be unlawful for the owner or operator of any motor or other vehicle to leave, place, stand, or park the same on any street, highway, alley, walk, or other public thoroughfare on or within any area and/or zone designated as a time limit parking area and/or zone for a period of time greater than as specified by a posted appropriate sign. Such vehicles found to be in violation are subject to impound at the owner or operator's expense. ~~Fine/Bail: \$25.00.~~

10.44.040 Overtime parking penalty.

Any person, firm or corporation violating overtime parking provisions of this chapter shall pay such fine not exceeding \$25.00 for each citation issued as the ~~court~~ **hearing officer** shall, in its discretion, impose. ~~The time for payment and method of payment of the penalty shall be prescribed by the court.~~ ~~Fine/Bail: \$25.00.~~

10.44.050 Standing or parking close to curb.

No person shall stand or park a vehicle in a roadway other than parallel with the edge of the roadway headed in the direction of lawful traffic movement and with the right-hand wheels of the vehicle within 12 inches of the curb or edge of the roadway except as otherwise provided in this title. ~~Fine/Bail: \$25.00.~~

10.44.060 Signs or markings indicating angle parking.

A. The superintendent of public works shall determine upon what streets angle parking shall be permitted and shall mark or sign such streets.

B. Angle parking shall not be indicated or permitted at any place where passing traffic would thereby be caused or required to drive upon the left side of the street. ~~Fine/Bail: \$25.00.~~

10.44.070 Obedience to angle-parking signs or markings.

Upon those streets which have been signed or marked by the superintendent of public works for angle parking, no person shall park or stand a vehicle other than at the angle to the curb or edge of the roadway indicated by such signs or markings. ~~Fine/Bail: \$25.00.~~

10.44.080 Permit for loading or unloading at an angle to the curb.

A. Any police officer is authorized to issue special permits allowing the backing of a vehicle to the curb for the purpose of loading or unloading merchandise or materials subject to the terms and conditions of such permit. Such permits may be issued either to the owner or lessee of real property or to the owner of the vehicle and shall grant to such person the privilege as therein stated and authorized herein.

B. It shall be unlawful for any permittee or other person to violate any of the special terms or conditions of any such permit. ~~Fine/Bail: \$25.00.~~

10.44.090 Stopping, standing, or parking prohibited – No signs required.

A. No person shall stop, stand, or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or traffic control device, in any of the following places:

1. On a sidewalk;
2. In front of a public or private driveway;
3. Within an intersection;
4. Within 15 feet of a fire hydrant;
5. On a crosswalk;
6. Within 20 feet of a crosswalk at an intersection;
7. Within 30 feet upon the approach of any flashing beacon, stop sign, or traffic control signal located at the side of a roadway;
8. Within 20 feet of a driveway entrance to any fire station and on the side of a street opposite the entrance of any fire station within 75 feet of said entrance (when proper sign posted);
9. Alongside or opposite any street excavation or obstruction when stopping, standing, or parking would obstruct traffic;
10. On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
11. Upon any bridge;
12. At any place where official signs prohibit stopping;
13. At any place where the curb is painted yellow.

B. No person shall move a vehicle not lawfully under the person's control into any such prohibited area or away from a curb such distance as is unlawful.

~~C. Fine/bail for any single violation of this section is \$25.00.~~

10.44.100 Parking not to obstruct traffic.

No person may stop, park, or leave standing a vehicle, whether attended or unattended, upon or within eight feet of a roadway, except where the roadway is of sufficient width and design to allow parking without interfering with the normal flow of traffic or with snow removal or other highway maintenance, and where the parking, stopping, or standing is not prohibited by an official traffic control device, unless directed to do so by an official flag person or police officer. ~~Fine/Bail: \$25.00.~~

10.44.110 Parking in alleys.

No person shall park a vehicle within an alley in such a manner or under such conditions as to leave available less than 10 feet of the width of the roadway for the free movement of vehicular traffic. No person shall stop, stand, or park a vehicle within an alley, in such position as to block the driveway entrance to any abutting property except for the expeditious active unloading and delivery or pickup and loading of materials or freight. In no case shall the stop for loading and unloading of materials or freight exceed two hours unless freight is being actively unloaded or loaded. ~~Fine/Bail: \$25.00.~~

10.44.120 Parking for certain purposes prohibited.

No person shall park a vehicle upon any street or roadway for the principal purpose of:

- A. Displaying such vehicle for sale.
- B. Washing, greasing, or repairing such vehicle except repairs necessitated by an emergency. ~~Fine/Bail: \$25.00.~~

10.44.130 Parking adjacent to schools.

A. The superintendent of public works is hereby authorized to erect signs indicating no parking upon either or both sides of any street adjacent to any school property when such parking would, in the superintendent's opinion, interfere with traffic or create a hazardous situation.

B. When official signs are erected indicating no parking upon either side of a street adjacent to any school property as authorized herein, no person shall park a vehicle in any such designated place. ~~Fine/Bail: \$25.00.~~

10.44.140 Parking prohibited on narrow streets.

A. The superintendent of public works is hereby authorized to erect signs indicating no parking upon any street when the width of the roadway does not exceed 20 feet, or upon one side of a street as indicated by such signs when the width of the roadway does not exceed 30 feet.

B. When official signs prohibiting parking are erected upon narrow streets as authorized herein, no person shall park a vehicle upon any such street in violation of any such sign. ~~Fine/Bail: \$25.00.~~

10.44.150 Standing or parking on one-way streets.

The superintendent of public works is authorized to erect signs upon the left-hand side of any one-way street to prohibit the standing or parking of vehicles, and when such signs are in place, no person shall stand or park a vehicle upon such left-hand side of any one-way street in violation of any such sign. ~~Fine/Bail: \$25.00.~~

10.44.160 No stopping, standing, or parking near hazardous or congested places.

A. The superintendent of public works is hereby authorized to determine and designate by proper signs places not exceeding 100 feet in length in which the stopping, standing, or parking of vehicles would create an especially hazardous condition or would cause unusual delay to traffic.

B. When official signs are erected at hazardous or congested places as authorized herein, no person shall stop, stand, or park a vehicle in any such designated place. ~~Fine/Bail: \$25.00.~~

10.44.180 Application of parking provisions.

The provisions of the sections prohibiting the standing or parking of a vehicle shall apply at all times or at those times herein specified or as indicated on official signs except when it is necessary to stop a vehicle to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic control device.

10.44.190 Provisions not exclusive.

The provisions of this chapter imposing a time limit on parking shall not relieve any person from the duty to observe other and more restrictive provisions prohibiting or limiting the stopping, standing, or parking of vehicles in specified places or at specified times.

10.44.200 Parking prohibited at all times on certain streets.

(Reserved).

10.44.210 Time limit for parking.

A. Constitutes Abandonment. Except as otherwise provided in HBC [10.44.020](#), it shall be unlawful for any person to park any vehicle within the right-of-way of any public street or roadway for longer than 48 hours or to abandon any vehicle within such right-of-way. The presence of any vehicle which is inoperative and upon such right-of-way shall be prima facie evidence of abandonment.

B. Parking Time Restrictions. It shall be unlawful to park any vehicle for longer than one hour on Main Street between Second and Third Avenues. Between May 1st and October 1st, it shall be unlawful to park any vehicle for longer than two hours on Main Street from Third to Fourth Avenues, on Second and Third Avenues from Willard to Dalton, on Main Street from Front Street to Second Avenue, and on the south side of Main Street from Fourth to Fifth Avenues. These time restrictions shall be in effect between the hours of 9:00 a.m. and 7:00 p.m., Monday through Saturday, except along yellow zones indicating "no parking at any time" in accordance with HBC [10.02.250](#). See HBC [10.44.040](#) for fine/bail.

10.44.220 Unauthorized parking on private property.

It shall be unlawful for any person to park a motor vehicle on private property that is not the person's own and without the consent of the owner. ~~Fine/Bail: \$25.00.~~

10.44.230 Parking violations; civil fines.

A. All vehicle parking violations shall be subject to a civil fine in the amount of \$25.00.

B. Failure to contact the Haines Police Department within ten (10) days of the date of the notice of violation and arrange a payment schedule for the fine acceptable to the Police Department, or to pay the fine for a parking violation within 5 days of the date of the notice of violation, or to file an appeal of a notice of violation within ten (10) days of the date of the notice of violation, will result in an additional fee equal to the amount of the civil fine being added to the original amount of the civil fine.

10.44.240 Notice of Violation of Parking Restrictions.

A. A notice of violation of parking restrictions set out in this chapter may be issued by affixing a notice of violation to the vehicle that is parked in violation. The notice of violation shall include the following:

- 1. A brief description of the violation;**
- 2. The registration number and/or other identification of the vehicle, if available;**
- 3. The date and approximate time and place of the violation;**
- 4. The civil fine for the violation;**
- 5. The municipal office where the fine must be paid;**

6. Statement that unless within ten (10) days of the date of the notice of violation the Haines Police Department is contacted and an arrangement is made for payment of the fine acceptable to the Police Department, or the fine is paid within ten (10) days of the date of the notice, or an appeal is filed within ten (10) days of the date of notice, an additional fee equal to the amount of the civil fine will be added;

7. Statement that a notice of violation may be appealed, the office where such an appeal must be filed, and the time for filing an appeal;

8. Statement that timely payment, or acceptable arrangement for payment, of the fine or will waive all rights to appeal the notice of violation; and

9. Statement that failure to timely appeal will be deemed an admission of the violation and will waive all right to appeal or contest the notice of violation.

10.44.250 Administrative Appeal.

A. Right to Appeal and Time for Appeal. The registered owner of a vehicle which has been issued a notice of violation of parking restrictions may appeal the notice of violation by filing an appeal with the borough manager within ten (10) days of the date of the notice of violation. The manager shall prepare appeal forms which appellant may use.

B. Hearing Officer. The borough manager or such person(s) as the manager may designate shall serve as hearing officer for notice of violation appeals and shall have authority to decide such appeals.

C. Contents of Appeal. An appeal must be in writing and contain the following information:

1. Name and mailing address of the appellant;

2. Number or other sufficient identification of the notice of violation;

3. Description of the vehicle;

4. Statement of the reasons for the appeal;

5. Any facts, documents, photographs, witness statements, or other evidence supporting the appeal; and

6. Statement as to whether the appellant requests a hearing before a hearing officer, or whether the appeal can be decided without a hearing. If the appellant waives hearing, the hearing officer may decide the appeal based on the written statements of the appellant, the issuing officers and any witnesses, and the hearing officer's own observations.

D. Administrative Hearing Procedures.

1. Date of Hearing. Unless otherwise agreed by the appellant and the hearing officer, a hearing requested under this section shall be held no later than fifteen (15) days from the date the written notice of appeal is filed with the borough manager.

2. Procedure. The hearing shall be conducted informally and may be governed by such rules as the hearing officer may choose to establish, except that:

a. Parties may appear in person or through counsel;

b. Parties may present witnesses and evidence on their own behalf and witnesses may be cross-examined;

c. The hearing is not governed by the formal rules of evidence. The hearing officer may consider evidence that the officer reasonably deems to be both relevant and material to the contested issues;

d. All hearings shall be open to the public;

e. The hearing shall be memorialized by electronic recording or stenographic record, but a failure to record the hearing shall not be grounds for invalidating the hearing officer's decision;

f. Failure of the appellant to appear at a hearing requested by the appellant shall waive all right to a hearing and shall render the amount of the fine due and owing.

3. Scope of Review. The hearing officer's decision shall be based on the law and facts applicable to the case. The hearing officer may exercise independent judgment and reasonable discretion, applied in a consistent manner, in deciding appeals and may affirm, modify, or dismiss the notice of violation.

4. Decision. No later than ten (10) days following the hearing, the hearing officer shall issue a written decision setting out the hearing officer's findings and conclusions so as to provide a clear understanding of the reasons for the decision entered. The decision should also include the following statement: "This is the final decision of the municipality and a party disputing this decision has thirty (30) days from the date this decision was mailed or distributed to file an appeal with the Superior Court for the State of Alaska, First Judicial District at Juneau, Alaska, in accordance with the Alaska Rules of Appellate Procedure." The decision shall be mailed or otherwise distributed to all parties to the appeal.

5. Judicial Appeal. The decision of the hearing officer may be appealed to the Superior Court for the State of Alaska, First Judicial District at Juneau, Alaska, in accordance with the Alaska Rules of Appellate Procedure.

ADOPTED BY A DULY CONSTITUTED QUORUM OF THE HAINES BOROUGH ASSEMBLY THIS
___ DAY OF _____, 2013.

Stephanie Scott, Mayor

ATTEST:

Julie Cozzi, MMC, Borough Clerk

Date Introduced: 06/11/13
Date of First Public Hearing: 06/25/13
Date of Second Public Hearing: ___/___/___

From: Patrick Munson [<mailto:PMunson@bcf.us.com>]

Sent: Tuesday, June 04, 2013 1:44 PM

To: Mark Earnest

Cc: Brooks Chandler

Subject: RE: Ordinance re parking tickets

Mark – Attached is a draft of the parking ordinance you requested. It is relatively straightforward in spite of its length. The length of the ordinance is due to minor deletions from every section (i.e., the individual listing of fines of \$25.00), which I took the liberty of deleting and replacing with a catchall penalty under 10.44.230.A. Unless the Assembly desires to set different fine amounts for different parking violations, it makes more sense to address the fines in a single provision, but in order to do so we deleted each individual reference.

The real substance of the ordinance is .240-.250, which establish the contents required for municipal parking citation and establish the administrative appeal process by which a person may challenge the ticket if they choose to. The general procedure suggested here is essentially required by the new court rules requiring “personal service” for minor criminal infractions, including parking tickets if those tickets are treated as criminal violations. In order to avoid the requirement that parking tickets be personally served upon a person who parks his or her vehicle unlawfully, the Borough must make it clear that parking tickets are subject to a civil fine, which also requires it to establish an appeal procedure for people receiving a ticket to challenge it. Although this process will require a little extra work on the Borough’s part, it will mean that all parking ticket fines go directly to the Borough and avoid the need for personally serving tickets to the drivers of the vehicle. These civil fines may be left on parked cars as usual. The Borough will need to obtain and use parking ticket forms that comply with the requirements below if it does not already have them

The Police Department will be responsible for accepting payment. The fate of those funds is not addressed herein, but may be established by ordinance as well. Payments must be made within ten days of the ticket being issued. Anyone wishing to appeal must so notify the Borough within ten days as well. The City Manager or his designee must then hold an informal hearing within 15 days of the request. The hearing officer then issues a written decision within ten days of the hearing. That decision is final but may be appealed to the superior court just like a normal agency action (such as a BOE hearing result).

I am happy to provide more detail or answer questions on this issue if you or the Assembly would like. Please let me know if I may be of any further assistance.

Patrick Munson
Boyd, Chandler & Falconer LLP
(907) 272-8401



Memo

Public Facilities

Date: June 25, 2013
To: Mayor and Borough Assembly
Cc: Borough Manager
From: Carlos Jimenez, Director of Public Facilities
Re: Project Update

Barnett Tank Construction

The concrete slab for the new tank was poured on June 19. Assembly of the new tank began on June 20. The tank will likely be erected within one month after which the mixer installation, wiring, insulation, siding, and cathodic protection will take place.

Borough Radio Communication System

Plans for the Borough's radio communication system are in the final stages of design. Delivery of the 95% design is expected any day.

E-911 System

Proposals have been received for the Borough E-911 system replacement project. The review committee is reviewing and evaluating the submittals.

Public Safety Building

The Facilities Master Plan Steering Committee met in April and will be making recommendations on how to proceed with actions pertaining to the PSB.

High School Air Handling Unit

Mechanical Design is underway and this project will go out to bid in late summer or early fall.

PC Dock and Letnikof Harbor Upgrades

Demolition at the PC Dock is scheduled to begin August 16. A survey crew by the contractor is scheduled to begin in July. This survey work will not have any impact on the operation of the PC Dock.

Chilkat Lake Road Improvements

A preconstruction meeting was held June 3 with PND, SRI, IPEC, and the Borough. Work will resume approximately July 1. Substantial completion is August 31 of this year.

Highland Estates AC Pipe Replacement

This job has been advertised and bids will be opened June 27. The project consists of replacing the asbestos waterline in the Highland Estates area which includes Oslund Drive, Bjornstad Drive, Muncaster Drive, and areas of Young Rd. Substantial completion is set for November 1, 2013.

Haines Gym, Pool & Chilkat Center Doors and Haines Gym Mat Hoist

This project is being advertised and has a bid deadline of July 10. The project involves replacing doors in three facilities: the school gym, the pool, and the Chilkat Center, and installing a mat hoist in the new gym.

Museum Stairs and Walkway

The borough is currently seeking proposals until June 26 for the construction of concrete front stairs and walkway at the Sheldon Museum. The job is to be completed by July 31.

May 2013 Haines Vol. Fire Dept. Monthly Report

The Haines Vol. Fire Dept. had two fire callouts in May. Calls included a Carbon Monoxide alarm in a residence that activated and was investigated. The second was a shed and boat fire at a midtown residence with many potential exposures. We were able to contain the fully involved fire to the structure of origin. Fire callouts for 2013 total 25. The Haines Vol. Fire Dept. responded to 14 ambulance callouts in May. Calls included an altered level of consciousness, one with back pain, three with respiratory distress, a fall, one with stroke like symptoms, a call where the patient left the area prior to our arrival and 6 medivacs/ transports. Ambulance callouts for 2013 total 93. There was no SAR callout in May.

The first joint meeting for May was a business meeting followed by our annual boat harbor drill for fire responders. Our protocol had to be adjusted due to the new placement of a structure near our previous truck placement location. The ambulance responders reviewed START triage procedures. Triage is necessary when there are more patients than can be transported initially on the scene.

The department gave our 6, \$500 scholarships (3 to graduating seniors Brandon Bachman, Jess Giddings and Alisha Young) and (3 continuing education scholarships to Matthew Blood, Crystalyn Lemieux, and Hannah Wing). We had 7 members (Roy Josephson, Greg Palmieri, Vince Hansen, Scott Bradford, Danny Gonce, Jenn Walsh, and Al Badgley) complete their red card wildland fire recertification.

For EMS activities, Penny Fossman, Brandi Stickler and Brennan Whitimore (a work experience student the last half of the school year) completed an EMT 1 course, (thanks and congrats). We assisted in a disaster drill for the SEARHC clinic with 6 patients (4 trauma & 2 medical) brought to the clinic in a 30 minute time frame. A big thanks to Julie Anderson for spearheading this event as well as an appreciation lunch of our EMS responders put on by the clinic staff in honor of national EMS week May 18-25. Thanks to Mayor Stephanie Scott for issuing a borough proclamation regarding EMS week. In September, a large group of EMS responders (around 75) will come to Haines for a large-scale disaster drill. This drill is sponsored by the MMRS (Metropolitan Mobile Response System) with more details coming in future reports.

Volunteer Hours for May 2013

HVFD Fire 124 HVFD Ambulance 404

Volunteer Hours for all 2013

HVFD Fire 832 HVFD Ambulance 1452

Total volunteer hours HVFD for 2013 2284 Hours

Respectfully submitted,


Al Badgley
HVFD Training Officer

RECEIVED Haines Borough

JUN 06 2013

Clerk's Office

Chilkat Center for the Arts

A Community Facility Operated by the Haines Borough

(907) 766-3573

facsimile (907) 766-3574

E-mail business@khns.org

Facility Administration Report

May 2013

Usage

The tourism conference was the big push for May. Haines Tourism and the Chilkat Center hosted 100 people attending the Yukon Travel Industry Association May 3rd and 4th. The conference utilized the Conference Room, Basement, Theater and Lobby. Each of the three main rooms was set up with a PA system, projector and screens. Lee Heinmiller was indispensable during this event, providing three full days of consultation and work – he went above and beyond the call and the events would not have succeeded without his constant presence. I think it would be a nice gesture to give Lee an honorarium of some type and as it was a Tourism event, I suggest the Tourism Dept. budget handle it. I've made overtures to the Borough and the Tourism Dept. but haven't received a response as of yet. For future events and conferences, I believe we need to include a very clear fee for sound. As an example of value, a sound engineer makes from \$300 - \$500 a day/evening for events and Lee is a real bargain. He brings extensive knowledge of both the building and sound engineering. The Sheldon Museum will be hosting the Alaska Historical Society in September so this should be addressed before then.

General usage was down per person but I think we can understand the pull of the great outdoors when we finally had some great weather. Vacations of yoga and jujutsu teachers and students is also taking folks away from classes but attendance is still robust. We didn't have many special events in May apart from the conference.

Governance of the Center

In order to accommodate the need for a conference space, the Board(s) have been asked to consider putting in place policies and/or equipment that will facilitate a more comfortable and clear experience for the attendees.

Maintenance

- * Windows in the center in the conference room and dance studio need to be adjusted to facilitate opening and closing – most of them have broken mechanism or stripped cranks.
- *The auditorium ceiling is waiting for repair from the fall roofing mishap.
- *The auditorium has some fixtures along the side of the theater that we've asked to have activated so there will be more light in the wings when tables are set up there.

Submitted by Facilities Manager, Kay Clements, May 2013



Chilkat Center for the Arts			
May-13			
Contact	Function	Participants	Amount
	Dance Studio		
SEARHC	Yoga Tuesday and Thursday 5:15-6:30, Sun 9:30am, Monday and Friday noon - 1pm	254	330
Chorus Bishop	Seibukan Jujitsu --	50	165
	Lobby		
SEARHC	Morning Muscles	44	75
St Michael's	Sunday Services	80	300
SEARHC	Strongwoman	42	135
Yukon Travel Conference	lobby/basement/auditorium	100	850
	Basement		
	Conference Room		
	Auditorium		
Sarah J	Kitchen	1	250
	May Totals	571	\$2,105

**Sheldon Museum
Monthly Staff Report
May-June 2013**

MAY VISITORS

Local Walk-in	143
Paying Walk-in	316
Non-paying Walk-in	96
Children local and non-local	5
With School Group	74
Programs/meetings at Museum	60
Off-site Activity	113
In tours	28
Web Site Page Hits: 2,115 page views	
[1,060 visits (repeat visitors), 852 unique visitors (1-time visitor)]	

YEAR THROUGH MAY

Local Walk-in	450
Paying Walk-in	388
Non-paying Walk-in	109
Children local and non-local	23
With School Group	250
Programs/meetings at Museum	1066
Off-site Activity	198
In tours	56
Page views	7,760

MAY VOLUNTEERS

Number:	51		
Total Hours:	353.25	Hours Year Total	1314

USE OF MUSEUM BY OTHER GROUPS

- Haines A cappella Women's Chorus
- Alaska Mountain Guides Training Tour
- Chilkat Guides rented museum for class, May 12.
- Chilkat Valley Historical Society

UPCOMING EVENTS/PROJECTS

- Donna Catotti's 6-Week Spotlight opens 6/7
- Open Application for Six Week Spotlight soon
- SEAK Museum Fair Booth July 25th-28th, 2013
- Museums Alaska / Alaska Historical Society Annual Conference Sep. 25-28.

ADMINISTRATION and OPERATIONS

- **Children of Glacier Point Meet & Greet.** On May 10th Stetler sisters Denise, Linda, Nancy & Ruth shared stories about living on Glacier Point as children in the 1960s.
- May 11th, several people traveled to Eldred Rock on Tod Seben's boat, where they met staff from the Marine Exchange of Alaska and members of the Coast Guard to do an assessment of the buildings.
- Blythe is updating the Eldred Rock Lighthouse information on the website and reporting on the progress of acquiring the lighthouse. She is also creating a page for the Museums Alaska / Alaska Historical Society Conference. The registration will be done through our web site. As a volunteer for the Eldred Rock Committee, she is creating the web site www.eldredrocklighthouse.com.
- Thanks to Art Woodard, Joan Snyder and Julie Shook for coming in on sudden notice when for a surprise cruise ship on May 15th, the week before we started opening in the morning.
- Jerrie attended the Tourism Meeting on May 16th and spoke briefly about the Museum's summer exhibits and activities.
- Forty-nine people attended the **Volunteer Appreciation Party** on May 18th at the Chilkat Center Lobby.

- Mike Wilson began work as Janitor on May 27th.
- On May 30th, Kris attended, "How to Build Your Social Media Audience," presented by Steve Vick and hosted by Chilkat Valley Community Foundation. She learned, how to "create contagious content" on our FaceBook page. She is still posting at least once a week. A newsletter is being written to go out on MailChimp very soon after the new director is selected.
- Intern Erica Rodenbeck arrived on June 2nd. She came with experience gained in other internships and has settled right as part of the team and is cataloguing artifacts, and helping where needed.
- AML donated transportation of a log from Kake for the Totem Pole Project. Borough Staff will bring it to the museum yard.
- This year Go West Tours has scheduled eight tours throughout the summer with 15-20 people in each group. Last year they had only one or two tours. This will give the board a chance to try out their tour guide training.

EDUCATION

- Mario Benasi and his falcon attended the May 1st Walk and Talk from the Golf Course to Jones Point.
- On May 17th, 9th graders came to look at the exhibits. Then kindergarteners visited and planted marigolds.
- Scott hosted an evening with information about healthy living, with live music and healthy snacks on June 1st.

ARCHIVE

The archive helped 21 researchers with second visits for 2 of them:

- CVN, KHNS and Borough Admin called about the sunken barge.
- Six members of Anastasia Wiley's archaeology class came to learn to use the archive and began research.
- Others researched railroad plans in this area, Austin Hammond recorded interview, Eulachon, photographs of Lynn Canal, Kwaltuu (Klucktoo) at 19 Mile, Marvyl Rommel who taught at Haines House, Lynn Canal Community Players records.

EXHIBITS

- The **Ferry 50th Anniversary exhibits created** by Andrea Nelson and mostly funded by the Borough were installed in the windows of the Gross Building and above the ticket windows at the Ferry Terminal. Smaller versions of the Gross Building panels were given to the Tourism Department to display and to use at presentations.
- **Six Week Spotlight: William McRoberts Digital Art Photography** finished June 1st. Two of his pieces were sold by the museum on consignment.
- **Six Week Spotlight: Donna Catotti – Faces and Figures** opens with a reception on June 7th and will be on display in the Hakkinen Gallery through July 20th.
- The art in the Lower Gallery Art Corner has been rotated. Some pieces that have not been displayed for a few years are now on display for the year.



**Haines Borough
Planning Commission Meeting
May 9, 2013
MINUTES**

Approved

1. **CALL TO ORDER/PLEDGE TO THE FLAG** – Chairman **Goldberg** called the meeting to order at 6:30 p.m. in Assembly Chambers and led the pledge to the flag.
2. **ROLL CALL** – **Present:** Chairman Rob **Goldberg**, Commissioners Rob **Miller**, Andy **Hedden**, Lee **Heinmiller**, Don **Turner III**, Danny **Gonce**, and Robert **Venables**.
Staff Present: Xi “Tracy” **Cui**/Borough Planning & Zoning Technician III
Also Present: Joanne **Waterman**, Darcee **Messano**, James **Studley**, Aaron **MacDonald**
3. **APPROVAL OF AGENDA**
Motion: **Miller** moved to “approve the agenda”. **Gonce** seconded it. The motion carried unanimously.
4. **APPROVAL OF MINUTES** – April 18, 2013 Regular Meeting
Motion: **Heinmiller** moved to “approve the April 18, 2013 Regular Meeting Minutes.” **Miller** seconded it. The motion carried unanimously.
5. **PUBLIC COMMENTS** – None
6. **CHAIRMAN’S REPORT** –
Goldberg stated that the community is looking into the possibility of replacing/restoring the Borough buildings. The community has consulted an engineering company to estimate the cost and seek solutions to increase the energy efficiency of those buildings.
7. **STAFF REPORTS**
Cui reported recent permitting and enforcement activities.
8. **PUBLIC HEARINGS**
A. Jeffrey and Darcee Messano – Guest House Conditional Use Proposal
Goldberg opened up the public hearing at 6:40 p.m.
Messano stated that she is requesting for the Planning Commission to approve her conditional use proposal to allow the construction of a 14’ by 18’ cabin to be built on her property. The proposed cabin is for sleeping purposes only.
Goldberg closed the public hearing at 6:41 p.m.
Motion: **Venables** moved “to approve **Messano**’s conditional use proposal to build a 14’ by 18’ cabin.” **Miller** seconded it. The motion carried unanimously.
9. **UNFINISHED BUSINESS** - None
10. **NEW BUSINESS**
A. Historic District/Building Review - None
B. Haines Borough Code Amendments – Title 18 Revisions

1. Parking Regulations in HBC 18.80.040

Goldberg stated that small lots in the downtown area make it difficult for commercial development to meet the parking requirements and code change may help remedy this problem. He suggests that on-street parking spaces adjacent to the property being developed may be counted toward meeting the parking requirement.

Miller asked how long does it allow for someone parking on-street before being towed away. **Miller** said parking spaces cause a lot of issues between neighbors in Juneau.

Turner stated that the parking regulations are fine, and there is nothing wrong with the current parking regulations. He believes it will cause a lot of other problems if the parking code gets amended.

Goldberg said the over-night parking and snow-removal issues will be resolved if the code amendment is only subject to commercial uses.

Studley stated the existing parking regulations for commercial uses are over-restrictive, which causes high cost of commercial developments in Haines.

Miller said he thinks on-street parking adjacent to the residential properties should be exclusive in this case.

Venables asked if the Planning Commission may grant a variance for parking standards.

Goldberg answered it will be very difficult to grant a variance request if there is no physical problem with the property.

Miller said he thinks there are not enough parking spaces for St. Lucy's Assisted Living. However, he is not against the parking code amendment.

Gonce suggested all on-street parking should be only allowed for short term.

Venables moved to "recommend the Assembly amend Haines Borough code that legal, on-street parking spaces adjacent to commercial property being developed may be considered by the Planning Commission for short term parking and counted toward meeting the parking requirement in 18.80.040(B)." **Miller** seconded it. The motion passed 6 to 1 with **Turner** opposed.

2. 15' Building Separation Regulations in HBC 18.80.030

Goldberg said the Planning Commission has seen several conditional use applications for the 15-foot building separation requirement that involved unoccupied structures. Since the 15-foot building separation is for public safety and fire-related concerns, **Goldberg** suggests that 15-foot separation between unattached buildings applies only when at least one of the buildings is for human occupancy.

Miller mentioned the current code requires fire-related concerns must meet the approval of both the state fire marshal and local fire department. However, the buildings for residential uses are not able to get approval of the state fire marshal. He thinks that this needs to be fixed as well.

Venables asked if the current setback regulations are applied Borough wide.

Goldberg answered it only applies to the townsite service area. The Planning Commission can consider expanding setback regulations Borough wide. This topic will be scheduled as a discussion item for the next regular Planning Commission meeting.

Heinmiller moved to “recommend the Assembly amend Haines Borough code 18.80.030 that the distance between unattached buildings must be 15 feet unless approved as a conditional use by the Planning Commission. Building separation is intended for public safety; fire-related concerns must meet the approval of both the state fire marshal and local fire department, where applicable. The 15-foot separation between unattached buildings applies only when at least one of the buildings is for human occupancy.” **Gonce** seconded it. The motion carried unanimously.

3. Clarify “Temporary Residence” in HBC 18.60.020 and “Temporary Use” in HBC 18.20.020

Goldberg mentioned according to HBC 18.60.020, temporary residence permits may be granted for a period of one year, and one six-month extension of the temporary residence permit may be granted by the Planning Commission as long as the developer is complying with all requirements. However, HBC 18.20.020 defines “temporary use” as a building or structure that is capable of being immediately moved, or a use which is for a limited time up to six months. There is a conflict between those two sections of code, which need to be fixed.

Venables asked if a yurt is considered as a temporary residence.

Goldberg answered a yurt is considered as a single residential structure, which requires a land use permit.

Turner said he thinks a yurt should be considered as a “tent”, the same as mobile homes, RVs and trailers.

Goldberg said the issues of a yurt will be scheduled as a discussion item for the next regular Planning Commission meeting.

Turner moved to “recommend the Assembly amend Haines Borough code 18.20.020 that ‘temporary use’ means a building or structure that is capable of being immediately moved, or a use which is for a limited time up to 18 months.”

Miller seconded it. The motion carried unanimously.

4. Disclosure of Zoning Regulations for Property Sales

Venables stated that it is very important to disclose the zoning regulations to let the property owners know the allowable uses that may occur in different zoning areas. For example, people can build houses within zero setback to the property lines in commercial zone; junk yards and power plants could be allowed in light-industrial zone.

Studley said it is state law that requires the real estate agency to disclose zoning regulations for property sales. However, the problem is that a lot of people sell their properties on their own, and they will not tell the future owners about allowable uses that may happen in the area.

Venables suggested that the disclosure of zoning regulations could be shown on a survey plat, but he does not have any detailed suggestions yet.

Miller said it will be a good idea if the Borough staff could disclose the property report and provide a list of allowable uses that may happen in the area to the future property owners.

Goldberg said he will go talk with the Borough manager. This topic will be back on the agenda of the next Planning Commission meeting.

5. Flashing or Blinking Sign Regulations in HBC 18.90.070

Goldberg said flashing/blinking signs are becoming more prevalent in the townsite service area, but currently flashing/blinking signs are prohibited by Haines Borough code. The Planning Commission needs to determine either to enforce the code or change the code.

Heinmiller said the technology is approaching the small town. Flashing/blinking signs are very distracting.

Turner asked if the “scrolling” sign in school is prohibited by the Borough code. He does not think it is a flashing/blinking sign, because it just changes a message to another message.

The Planning Commission agreed on enforcing the code.

C. Project Updates – None

D. Other New Business

1. Soboleff/McRae Veteran’s Village Plan

Studley gave the Planning Commission a brief introduction to the preliminary plan of Soboleff/McRae Veteran’s Village (SMVV). He said Haines Assisted Living (HAL) does not need a conditional use or variance permit because they have 43 parking spaces to meet the code. HAL wants to widen the street on the south side of SMVV by placing a curb closer to the facility, essentially indenting the existing sidewalk and bringing it closer to the proposed Veteran’s building and creating two off-street parking spaces within the circumference of the parking lot. The sidewalks will be paved. The problem is that these sidewalk improvements are all within the Borough Right-of-Way. HAL will build one storm drain system to connect to 3rd Ave. The design allows for a safety factor by placing a “No Parking” sign near 2nd Ave on Dalton St facing west, which will keep a clear visual path looking towards 2nd Ave. HAL is requesting for the Planning Commission to approve and accept the construction of the sidewalk and street improvements. **Studley** said he just wants to make the street look nice.

Goldberg said it is actually a gift to the Borough.

Miller said he thinks this preliminary plan is a lot better than the one with no sidewalk and street improvements. He has no problems with HAL’s proposal.

Goldberg said that HAL’s proposal is use-by-right in commercial zone. The permit should be approved administratively in the Borough office. The Planning Commission can recommend HAL’s proposal subject to the Borough manager’s approval as these sidewalk and street improvements are within the Borough Right-of-Way.

Venables moved to “recommend the manager to accept HAL’s proposal for sidewalk improvements on Dalton St.” **Heinmiller** seconded it. The motion passed 6 to 1 with **Turner** opposed.

More discussion ensued.

2. Downtown Revitalization Committee

The Planning Commission recommended the Mayor appoint Rob **Miller** to fill one seat on the Downtown Revitalization Committee. The motion carried unanimously.

11. **COMMISSION COMMENTS** - None

12. **COMMUNICATION** - None

13. **SET MEETING DATES** – The next Regular Planning Commission meeting is scheduled for 6:30 p.m. on Thursday, June 13, 2013.

14. **ADJOURNMENT**– 8:49 p.m.

SHELDON MUSEUM AND CULTURAL CENTER, INC
Board of Trustees Meeting Minutes
Monday, May 13, 2013, at the Sheldon Museum

CALL TO ORDER: 1:05 p.m. by President Jim Heaton

ATTENDANCE: BOARD – Michael Marks, Lorrie Dudzik, Bob Adkins, Jim Heaton, Anastasia Wiley, Jim Shook (*by phone*), Jan Hill and Dave Pahl: **STAFF** – Jerrie Clarke, Blythe Carter: **BOARD LIAISON** – None

ADDITIONS TO THE AGENDA: Under New Business - Discuss Rasmuson Acquisition Fund. Also discuss disposal of extra carpet from last year's re-carpeting project.

APPROVAL OF AGENDA: M/S Michael & Jim S. - approved unanimously

APPROVAL OF MINUTES: M/S Michael & Dave – approved unanimously

CORRESPONDENCE/VISITORS: John Hagen (*Jr.*) attended as a prospective Board member.

- Carlos Jiminez, head of Borough Maintenance, attended to address the issue of replacing the front steps and railing. The project will be funded from Borough deferred maintenance funds. Request for quotes has gone out. Volunteers will be needed to help with the handrails. Dave P. will look over the proposals also. Contract should be awarded by June 1, with work to start ASAP. Thanks to Carlos and to Dave.
- SMCC received a thank you letter from Jesse Morgan, Ed. Coordinator for HBPL, for letting her borrow a carving and a tunic for a library display.
- Bill McRoberts wants to attend borough meetings to support SMCC budget requests.

STAFF REPORT: See two page handout in packet.

- A personnel issue was brought up, but could not be discussed due to state law.

FINANCIAL REPORT: See handout – Quarterly Budget-Actual Statement in packet

COMMITTEE REPORTS: Eldred Rock Committee had a good trip to Eldred Rock. Much work is needed. Pam is coordinating, and will take a priority list to Fairbanks later. Photos were taken of needed work. When Pam returns, we will have three months to complete our restoration plan. There was good participation from non-SMCC committee members. Gary Gillette, a civil engineer from Juneau was on the trip and will share his report with the committee. Lead paint will be a problem. That would be USCG's responsibility, but they have no money. Need to check for fuel oil contamination. Eldred Rock historically had a native Otter Clan Looking Out House on it. Smith Katzeek may have more information. It was the southern border of the Chilkats.

OLD BUSINESS: Totem Pole log is ordered. It may ship as early as next week from Kake. Work will begin on the pole ASAP.

- Volunteer Appreciation Luncheon is next Saturday (5/18/13) at noon at the Chilkat Center.

- Reviewed forms for ACF donation. If the Board approves it, when SMCC dissolves, funds will go to Chilkat Valley Historical Society (*first*) or Chilkat Valley Endowment Funds (*second*).
 - **Docent Training session with Joe Ordonez is scheduled for Thursday, May 16, at 3 p.m.**
- This two hour session is a gift from Jerrie Clarke. Thank you, Jerrie.

NEW BUSINESS: Neil Einsbruch has volunteered to give SMCC free investment advice. If we use his services, he will charge for them.

M/S Anastasia & Dave – Table signing ACF agreement until the new director arrives and we hear Neil Einsbruch’s advice at the next Board meeting. Passed unanimously.

- **Thursday May 23, from noon until 5 p.m. is a work day to clean shed, railings, and yard.**
- M/S Michael & Dave to approve John Hagen as new Board member. Passed unanimously.
- Michael suggested that we consider acquiring “Earthing Inner Sunlight”, a wood carving by Tresham Gregg, with Rasmuson Acquisition Fund grant money. Asking price is \$3200.
- Museum will give majority of the carpet back to the Borough, Keep enough to replace high wear areas.

BOARD DISCUSSION: It’s critical that as many Board members as possible attend the next three Borough Council meetings (*budget, and budget cuts*). The June 11, 6:30 p.m. meeting is crucial.

- We need to align our bylaws with Board policies.
- We also need to establish a “Friends of SMCC” to gain extra funds, and to enhance our grant status. Need a minimum of 25 members. Jerrie will make a presentation at the Volunteer Appreciation Luncheon this Saturday.
- Need to remind Carlos about replacing the missing letters on the outside of the building.
- Jerrie’s Farewell Party will be Sunday, June 9, from 4 to 6 p.m. at the museum.
- June 7 is Donna Catotti’s exhibit opening.
- Director application deadline is 5 p.m. today. Jerrie will make two copies. One set can go out on loan, the other set to be reviewed in the museum. **Hiring Committee (*committee of the whole*) will meet Monday, May 20, at noon to consider the applications.**

COMMITTEE MEETINGS: Conference Hosting Committee (*committee of the whole*) meets Thursday, May 30, at 4 p.m.

NEXT BOARD MEETING: Regular Board Meeting – Mon., June 10, 2013, at 1:00 p.m.

MEETING ADJOURNED at 2:55 p.m.

Respectfully submitted,

Bob Adkins, secretary



**Haines Borough
Assembly Agenda Bill**

Agenda Bill No.: 13-253

Assembly Meeting Date: 6/25/13

Business Item Description:		Attachments:
Subject: Sales Tax Exemption Application from The Great Bear Foundation	Originator: Borough Clerk	1. 6/18/13 Memo from the Applicant with Information requested by the Assembly 2. Application for sales tax exemption from Great Bear Foundation 3. Current list of sales tax exempt organizations in the borough
Originating Department: Administration	Date Submitted: 3/5/2013	

Full Title/Motion:
Motion: Approve the request from the Great Bear Foundation for sales tax exemption status, and authorize the borough clerk to issue an exemption certificate.

Administrative Recommendation:

Fiscal Impact:		
Expenditure Required	Amount Budgeted	Appropriation Required
\$	\$	\$

Comprehensive Plan Consistency Review:
Comp Plan Policy Nos.: _____ Consistent: Yes No

Summary Statement:
Great Bear Foundation, a 501(c)3 organization, applied for sales tax exemption status as allowed by HBC 3.80.050 (13). On 4/23, the assembly postponed consideration of the approval motion to until this meeting to allow the borough's finance director additional time to research the question of a nonprofit having ancillary revenue-generating sales. On 5/28, debate resumed on the motion to approve, but it was once again postponed to ask the applicant to come back with a list of what the organization proposes to use the sales tax exemption for, differentiating between their educational activities and their commercial tours. The applicant has provided a memo outlining the requested information.

Referral:
Sent to: _____ Date: _____
Recommendation: _____ Refer to: _____ Meeting Date: _____

Assembly Action:
Workshop Date(s): _____ Public Hearing Date(s): _____
Meeting Date(s): 3/26, 4/23, 5/28, 6/25/13 Tabled to Date: _____

Northern Office:
P.O. Box 1616, Haines, AK 99827

Montana Office:
PO Box 9383, Missoula, MT 59807



Alaska: (907) 303-2327
Montana: (406) 829-9378
Fax: (406) 829-9379

Web: www.greatbear.org
Email: gbf@greatbear.org

memo

To: Haines Borough Assembly
From: Shannon Donahue, Great Bear Foundation
CC: Borough Clerk Julie Cozzi
Date: 6/19/13
Re: Nonprofit Tax Exemption Application

I am writing to clarify the Great Bear Foundation's application for non-profit tax exemption in the Haines Borough, as per the Borough Assembly's request. The Great Bear Foundation (GBF) seeks tax exemption only for purchases related to our not-for-profit, educational and conservation activities, and not for expenses related to our commercial tour activities. I would also like to stress that the scale of our commercial tour activities is extremely small, with tours constituting a very small part of our organization's activities.

GBF seeks tax exemption for purchases related to our not-for-profit activities, such as:

- Office supplies
- Educational/instructional materials and supplies for non-commercial programs
- Office rent
- Fuel for non-commercial programs and activities, such as free educational programs and workshops
- Supplies for fieldwork not related to commercial activities
- Printing for materials not related to commercial activities

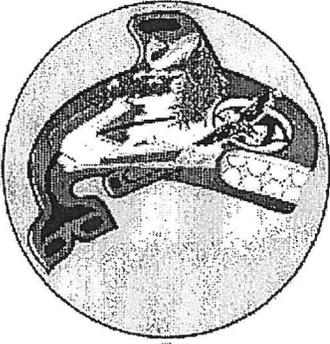
GBF does not seek tax exemption for purchases related to our commercial tour activities, such as:

- Fuel for commercial tours
- Food purchases for commercial tours
- Supplies for commercial tours
- Printing for commercial tours
- Any other expenses related to commercial tour activities

GBF is open to any suggestions the Borough may have as to how to assure the Assembly that we are not using our tax exemption for any purchases related to commercial activity. Please feel free to contact me with questions or concerns.

Sincerely,

Shannon Donahue
Executive Director



HAINES BOROUGH, ALASKA

P.O. BOX 1209

HAINES, AK 99827

(907) 766-2231 * FAX (907) 766-2716

APPLICATION FOR SALES TAX EXEMPTION CERTIFICATE
HAINES BOROUGH

THE FOLLOWING ORGANIZATION:

Great Bear Foundation of Montana

a non-profit corporation, organized under the laws of the State of Montana, hereby applies for a Sales Tax Exemption Certificate in the Haines Borough. As a representative of the organization, I hereby certify that I am familiar with said corporation, that it is organized exclusively for religious, education or charitable purposes, and that the following information is true and correct.

Local Address of Organization: PO Box 1616, Haines AK 99827

Date of Incorporation: 11/8/82 Federal Employer I.D. #: 81-0405765

Briefly Describe the Organizations Current and/or Proposed Activity in the Borough:

Non-profit wildlife conservation organization offering educational programs, field courses, and natural history tours

Attach a copy of the Bylaws or Articles of Incorporation. Also attach a copy of your letter of 501(c) 3, 501(c) 4, 501(c) 8 or 501(c) 19 exemption from the Internal Revenue Service.

Shannon K Doran
Organization Representative
Print Name: Shannon K Doran
Title: Executive Director
Phone: (406) 829-9378
Email: shannon@greatbear.org

DECLINED BY THE ASSEMBLY ON _____

Reason: _____

APPROVED BY THE ASSEMBLY ON _____

Haines Borough Mayor
Date: _____

Assigned Sales Tax Exemption Number

Internal Revenue Service
District Director

Department of the Treasury

Date: 08 NOV 1982

Employer Identification Number:
81-0405765

Accounting Period Ending:
June 30

Foundation Status Classification:
509(a)(1) and 170(b)(1)(A)(vi)

Advance Ruling Period Ends:
June 30, 1984

Person to Contact:
Ellen Oliver

Contact Telephone Number:
(206) 442-5106

▷ The Great Bear Foundation
of Montana
P.O. Box 2699
Missoula, MT 59806

Dear Applicant:

Based on information supplied, and assuming your operations will be as stated in your application for recognition of exemption, we have determined you are exempt from Federal income tax under section 501(c)(3) of the Internal Revenue Code.

Because you are a newly created organization, we are not now making a final determination of your foundation status under section 509(a) of the Code. However, we have determined that you can reasonably be expected to be a publicly supported organization described in section 509(a)(1) and 170(b)(1)(A)(vi).

Accordingly, you will be treated as a publicly supported organization, and not as a private foundation, during an advance ruling period. This advance ruling period begins on the date of your inception and ends on the date shown above.

Within 90 days after the end of your advance ruling period, you must submit to us information needed to determine whether you have met the requirements of the applicable support test during the advance ruling period. If you establish that you have been a publicly supported organization, you will be classified as a section 509(a)(1) or 509(a)(2) organization as long as you continue to meet the requirements of the applicable support test. If you do not meet the public support requirements during the advance ruling period, you will be classified as a private foundation for future periods. Also, if you are classified as a private foundation, you will be treated as a private foundation from the date of your inception for purposes of sections 507(d) and 4940.

Grantors and donors may rely on the determination that you are not a private foundation until 90 days after the end of your advance ruling period. If you submit the required information within the 90 days, grantors and donors may continue to rely on the advance determination until the Service makes a final determination of your foundation status. However, if notice that you will no longer be treated as a section 509(a)(1) organization is published in the Internal Revenue Bulletin, grantors and donors may not rely on this determination after the date of such publication. Also, a grantor or donor may not rely on this determination if he or she was in part responsible for, or was aware of, the act or failure to act that resulted in your loss of section 509(a)(1) status, or acquired knowledge that the Internal Revenue Service had given notice that you would be removed from classification as a section 509(a)(1) organization.

P.O. Box 21224, Seattle, Washington 98111

(over)

Letter 1045(DO) (6-77)

If your sources of support, or your purposes, character, or method of operation change, please let us know so we can consider the effect of the change on your exempt status and foundation status. Also, you should inform us of all changes in your name or address.

Generally, you are not liable for social security (FICA) taxes unless you file a waiver of exemption certificate as provided in the Federal Insurance Contributions Act. If you have paid FICA taxes without filing the waiver, you should call us. You are not liable for the tax imposed under the Federal Unemployment Tax Act (FUTA).

Organizations that are not private foundations are not subject to the excise taxes under Chapter 42 of the Code. However, you are not automatically exempt from other Federal excise taxes. If you have any questions about excise, employment, or other Federal taxes, please let us know.

Donors may deduct contributions to you as provided in section 170 of the Code. Bequests, legacies, devises, transfers, or gifts to you or for your use are deductible for Federal estate and gift tax purposes if they meet the applicable provisions of sections 2055, 2106, and 2522 of the Code.

You are required to file Form 990, Return of Organization Exempt from Income Tax, only if your gross receipts each year are normally more than \$10,000. If a return is required, it must be filed by the 15th day of the fifth month after the end of your annual accounting period. The law imposes a penalty of \$10 a day, up to a maximum of \$5,000, when a return is filed late, unless there is reasonable cause for the delay.

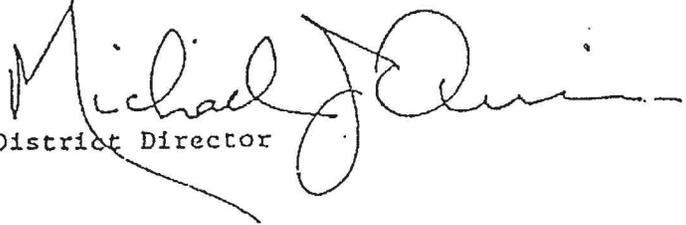
You are not required to file Federal income tax returns unless you are subject to the tax on unrelated business income under section 511 of the Code. If you are subject to this tax, you must file an income tax return on Form 990-T. In this letter, we are not determining whether any of your present or proposed activities are unrelated trade or business as defined in section 513 of the Code.

You need an employer identification number even if you have no employees. If an employer identification number was not entered on your application, a number will be assigned to you and you will be advised of it. Please use that number on all returns you file and in all correspondence with the Internal Revenue Service.

Because this letter could help resolve any questions about your exempt status and foundation status, you should keep it in your permanent records.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,


District Director

Internal Revenue Service
District Director

Date: DEC 04 1984

▷ Great Bear Foundation of Montana
P.O. Box 2699
Missoula, MT 59806

Department of the Treasury

Fed. T.E.# 81-0405765
ST Unemployment Inst # 140-

Our Letter Dated:
November 1982
Person to Contact:
Ellen Oliver
Contact Telephone Number:
(206) 442-5106

Dear Sir or Madam:

This modifies our letter of the above date in which we stated that you would be treated as an organization which is not a private foundation until the expiration of your advance ruling period.

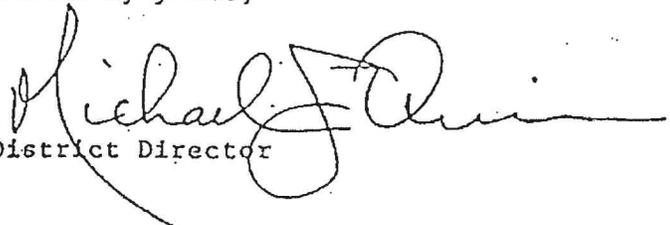
Based on the information you submitted, we have determined that you are not a private foundation within the meaning of section 509(a) of the Internal Revenue Code, because you are an organization of the type described in section See Below*. Your exempt status under section 501(c)(3) of the code is still in effect.

Grantors and contributors may rely on this determination until the Internal Revenue Service publishes notice to the contrary. However, a grantor or a contributor may not rely on this determination if he or she was in part responsible for, or was aware of, the act or failure to act that resulted in your loss of section *509(a)(1) status, or acquired knowledge that the Internal Revenue Service had given notice that you would be removed from classification as a section *509(a)(1) organization.

Because this letter could help resolve any questions about your private foundation status, please keep it in your permanent records.

If you have any questions, please contact the person whose name and telephone number are shown above.

Sincerely yours,


District Director

*509(a)(1) & 170(b)(1)(A)(vi)

DOQNO:0306Z

915 Second Avenue, Seattle, Wash: 98174

Letter 1050 (DO) (7-77)

As of 10/20/96

BY-LAWS
OF
GREAT BEAR FOUNDATION

ARTICLE I.
OFFICES

The principal office of the Organization shall be located in Gallatin County in the State of Montana. *(Minority Opinion: change "Gallatin County" to "Missoula County" OR leave out the name of a county altogether. Note: Polly consulted with John Kaufman, who says that by-laws are internal documents; the registered office and representative appear in the Articles of Incorporation on file with the state of Montana, and, the Articles are changed when the registered office is relocated. Vote: 5/yes, 2/no)* The Organization may have other offices, or Chapters, either within or outside of the State of Montana, as the Board may determine from time to time.

The Organization shall also have a registered office and a registered agent whose address is the same.

ARTICLE II.
MEMBERS

Section 1. Classes of Members.

General membership is open to anyone without regard to sex, age, nationality, or ethnic origin, with the payment of annual dues. In addition to individual members, the Board may establish other categories of membership as may be determined to be beneficial to the Organization. The Board may establish standards and dues for these memberships prior to voting to accept or reject such membership categories.

Section 2. Resignation.

Any member may resign by filing a written resignation with the Secretary.

Section 3. Termination or Removal.

Any member may be removed by the Board.

Section 4. Transfer of Membership.

Membership in this Organization is not transferrable or assignable.

Section 5. Reinstatement.

A member who was terminated or removed by the Board can be reinstated by the Board.

Section 6. Meetings.

An Annual Meeting of the members may be held each year, the time and place to be determined by the Board. Special member meetings may be called by the Board. Notice of any annual or special meetings shall not be made less than 14 days before the date of such meeting. Notification may be through *Bear News* or other written means.

Section 7. Meeting formats.

Meetings for the members will be designed by the Executive Director, with approval of the Board, to inform and educate members about the Organization's business; obtain member input into the Organization; and provide interesting speakers and field trips.

ARTICLE III.
BOARD OF DIRECTORS

Section 1. General Description.

The Board of Directors is the governing body of the Organization. It has authority to set policy and formulate the direction of the Organization; it has accountability for the fiscal well-being of the Organization; and it is responsible for the selection and evaluation of the Executive Director. Directors need not be residents of the State of Montana.

Section 2. Membership on the Board of Directors.

All Directors are members of the Organization. Directors are added through nomination by the Nominations Committee of the Board and by a majority vote of the Board.

Section 3. Number, Tenure, and Qualifications.

The number of Directors on the Board shall be at least five, and no more than 15. Each Director shall serve as a Director for a three year term, and may be re-elected for an additional three year term, and then must take a mandatory one year absence before being considered again.

(Minority Opinion: Delay tenure; one suggestion is -- "may be re-elected for additional terms." Another options: two 3-year terms, with one year off.

Vote: 5/yes, 2/no) To qualify, prospective Directors shall have an interest in conservation relative to bears. In order to establish staggered Board terms: upon adoption of these By-Laws initial Board terms of one, two, or three years shall be determined by drawing.

Section 4. Regular, Special, and Annual Meetings.

Regular or special meetings may be scheduled at the discretion of: the Executive Committee, the Board itself, the President, or any four Directors provided sufficient notification is given about such meetings. An Annual Board Meeting may occur in conjunction with the Annual Members Meeting.

Section 5. Notification.

Notice of any Board Meeting shall be provided to each Director at least 30 days before such meeting, by the Secretary or their designee. Any written means may be used, but must be verifiable and addressed to the address shown in the records of the Organization.

Section 6. Quorum.

A quorum exists when a majority of the Board is present at the meeting or participating in the meeting via telephone conference call, and responds to a roll-call by the Secretary.

Section 7. Proxies.

A Director may vote by proxy executed in writing by that member, the proxy being held by another Director. The Board may restrict the use of proxies in such manner as the Board shall determine by policy. *(Minority Opinion: no proxies allowed OR no blanket proxies, i.e. proxies allowed only for a vote on a specific issue.)*

Section 8. Voting.

A simple majority of the Directors voting shall determine Board action; a quorum must exist during any vote. An entire vote may be entered by mail in a manner which the Board may determine. The Secretary shall call and record the vote.

Section 9. Chairperson.

The President shall (*Minority Opinion: change "shall" to "may." Vote: 6/yes, 1/no*) serve as Chair; the term is for one year. There is no limit to the number of terms the President may serve as chair unless the Board determines otherwise. The Board may also select an outside person or group to chair a meeting.

Section 10. Manner of Acting.

The act of a majority of a quorum of the Directors shall be the Act of the Board, unless the act of a greater number is required by law or these By-Laws.

Section 11. Removal.

Any Director or Officer elected or appointed by the Board may be removed by the Board with a two-thirds vote whenever, in its judgement, the best interests of the Organization would be served.

Section 12. Vacancies.

A vacancy on the Board or in any Office may be filled by an act of the Board.

ARTICLE IV.
OFFICERS AND COMMITTEES

Section 1. Officers and Committees.

The Officers of the Organization shall be a President, a Vice-President, a Secretary, and a Treasurer, all elected by the Board. These Officers shall be the Organization's Executive Committee. The Board may elect other Officers. (*Vote: 6/yes, 1/no. No Minority Opinion*)

Section 2. Election and Term of Office.

The Officers of the Organization shall be elected annually by the Directors at an Annual Meeting. If the election of Officers shall not be held at such a meeting, an election shall be held as soon thereafter as is convenient. Vacancies or new offices may be filled at any meeting of the Board; each Officer shall hold office until a successor has been duly elected and qualified.

Section 3. Powers and Duties.

The Officers shall have such powers and perform such duties as may from time to time be specified in resolutions or other directives of the Board. In the absence of such specifications, each Officer shall follow the policies of the most current edition of *Roberts Rules of Order*.

The President shall be the principal Executive Officer. Duties shall include general supervision of the Organization, signing legal documents and contracts as determined by the Board.

The Vice-President, in the absence of the President, shall perform all presidential duties, as well as any additional duties which may be assigned by the Board.

The Treasurer shall keep a current and accurate accounting of the Organization's funds and various accounts, presenting this information at scheduled meetings to the Board. The

Treasurer shall work cooperatively with the Foundation staff and members of the Executive Committee to insure the funds are distributed in accordance with the annual budget approved by the Board. The Treasurer shall be responsible for all funds and securities of the Organization; receive and disperse funds relative to all accounts of the Organization.

The Secretary shall keep the minutes of all meetings; present such minutes to the Board for approval at each subsequent meeting, promptly record, clarify, and make available to the Board all Resolutions adopted by the Board: see that all notices are duly given; conduct and record roll-calls and voting; see that the Seal of the Corporation is affixed to all applicable documents; and oversee all membership rolls. *(No Minority Opinion. Vote: 6/yes, 1/no)*

Section 4. Removal.

Any Officer may be removed by a two-thirds vote of the Board whenever, in the Board's judgement, the best interests of the Organization would be served.

Section 5. Committees.

The Board shall appoint a Nominating Committee, Financial Committee, Project and Programs Committee and other committees as needed. Each Committee shall consist of three or more Directors.

ARTICLE V.
INVESTMENT POLICY

The Board shall have power to invest funds, not for speculation, with prudence; Establish an Endowment and/or a Permanent Fund, as stipulated by donors. All restricted funds shall be coded and expended as required by the donors. Other funds shall be coded and expended by project or program, under close supervision by the Treasurer and/or the Board. Projects and programs eligible for funds from operating or income investment earnings shall be determined with supervision of the Treasurer or the Board.

ARTICLE VI.
CONTRACTS, CHECKS, DEPOSITS, AND FUNDS

Section 1. Contracts.

The Organization may enter into contracts or other legal instruments as approved by the Board. The Directors may authorize the President and Treasurer, or any second Officer, or an agent of the Board, to sign such agreements.

Section 2. Deposits.

All funds of the Organization shall be promptly deposited, invested, or placed in the Endowment and/or Permanent Fund, as stipulated by the donor or the Board. The operating account shall receive all uncommitted funds, interest, casual income, etc., as the Board shall authorize, with the approval of donors, a portion of restricted funds may be assigned to the operating account. All deposits shall be coded upon deposit. A portion of the operating account may be placed in a petty cash account, after deposit and coding.

Section 3. Checks, Drafts, Other Expenditures.

All checks, drafts, orders for payment, other expenditures shall be under close supervision by the Treasurer or their designee as determined by the Board. In the absence of any determination required by the Board, such instruments shall be signed by the Treasurer and counter-signed

by the President or Acting President of the Organization.

Section 4. Gifts.

The Board may accept, on behalf of the Organization, any gift, bequest, property, etc., with proper licensing, recording and reporting, as required under non-profit Organization status.

Section 5. Audits.

The Board shall provide for periodic audits of the financial affairs of the Organization. Such audits shall be performed by an accountant who is not a member of the Board or an employee of the Organization.

ARTICLE VII.
BOOKS AND RECORDS

The Organization shall keep correct and complete books and records of account, and shall keep minutes of all proceedings of the Board, committees, the Executive Committee, Chapters, or other official business of the Organization, and shall keep a permanent record of Board-approved minutes of all Board meetings, and the official Corporate Records of the Organization. Further, the Board shall keep at its registered or principal office, a record of the names and addresses of all general members and Directors of the Organization. All such records of the Organization may be inspected by any member, his or her agent or attorney upon reasonable notice.

ARTICLE VIII.
FISCAL YEAR

The Fiscal Year of the Organization shall begin at 12:00 a.m., Mountain Standard Time, on the first day of January of each year, and end at midnight, Mountain Standard Time, on the 31st day of December.

ARTICLE IX.
WAIVER OF NOTICE

Whenever any notice is required to be given under the provisions of the Montana Non-Profit Corporation Act or under the provisions of the Articles of Incorporation or the By-Laws of the Organization, a waiver thereof in writing signed by the person(s) entitled to such notice before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

ARTICLE X.
AMENDMENTS OF BY-LAWS

The By-Laws and Articles of Incorporation of the Organization may be altered or repealed, and new By-Laws or Articles of Incorporation may be proposed and adopted by the Board by a two-thirds majority of the total Board of Directors. (*No Minority Opinion. Vote: 5/yes, 2/no.*)

SALES TAX EXEMPT NON-PROFIT ORGANIZATIONS

The following non-profit organizations are registered and approved to be exempt from paying sales tax in the Haines Borough. ANY NON-PROFIT ORGANIZATION THAT IS NOT LISTED SHALL BE CHARGED SALES TAX FOR THEIR PURCHASES. Please encourage those who insist they are exempt and not on this list, to stop by the Haines Borough office for further information. For questions and updates, please call 766-2231. Thank you.

<u>EXEMPT #</u>	<u>NAME OF ORGANIZATION</u>	<u>AUTHORIZED PERSONNEL</u>
174	Alaska Arts Confluence Box 1664, Haines, Ak. 99827	Judy Erekson Carol Tuyneman
104	Ak. Chilkat Bald Eagle Preserve Foundation, Box 213, Haines, Ak. 99827	INACTIVE
178	Alaska Chilkoot Bear Foundation, Inc. Box 1188, Haines, Ak. 99827	Pam Randles
106	Ak. Community Develop. Corp 6250 Tuttle Place #5, Anchorage, Ak .99507	Patrick Shiflea
176	Alaska Community Foundation 400 L St., Suite 100, Anchorage, Ak. 99501	Annette Erickson
132	Alaska Indian Arts, Inc. Box 271, Haines, Ak. 99827	Lee Heinmiller
166	Alaska Native Brotherhood & Sisterhood Box 749, Haines Alaska 99827	Mike Case/V.P.; L. Heinmiller, Sec.
133	American Bald Eagle Foundation Box 49, Haines, Ak. 99827	Cheryl McRoberts
147	American Legion Post #12 Box 452, Haines, Ak. 99827	Jim Moran, Pat Murphy Elaine Pigott
173	American Red Cross of Alaska 3200 Hospital Dr., Suite 203 Juneau, Ak. 99801	Shad Engkilterra
160	AWARE, Inc. P.O. Box 20809, Juneau, Ak. 99802	Amy Maio
162	Big Brother Big Sister Box 1481, Haines, Ak. 99827	Office Closed
169	Catholic Community Services Haines Senior Center Box 801, Haines, Ak. 99827	Rosemary Hagevig/Juneau
110	Chilkat Center for the Performing Arts Box 1004, Haines, Ak. 99827	Key Clements
126	Chilkat Valley Bahai School Box 143, Haines, Ak. 99827	Georgia Haisler
103-1	Chilkat Valley Historical Society Box 23, Haines, Ak. 99827	R. Henderson; L. Harrell J. Snyder, C. Jones
113	Chilkat Valley Pre-School Box 1165, Haines, Ak. 99827	Sarah Elliott Darlin Bugni

Non-Profit Organizations(alpha)

<u>EXEMPT #</u>	<u>NAME OF ORGANIZATION</u>	<u>AUTHORIZED PERSONNEL</u>
135	Chilkat Valley Youth Center Box 866, Haines, Ak. 99827	INACTIVE
165	Chilkoot Indian Association Box 490, Haines, Ak. 99827	Tribal Government Dave Berry
143	Church of Jesus Christ LDS Box 916, Haines, Ak. 99827	Dave Berry
122	Covenant Life Center HC60 Box 2665, Haines, Ak. 99827	Roberta M. Lane
123	Covenant Life College HC60 Box 2665, Haines, Ak. 99827	Leonard V. Banaszek
140	Duck's Unlimited/Haines Chapter Box 628, Haines, Ak. 99827	Michelle Stigen
109	Echo Ranch Bible Camp Box 156, Haines, Ak. 99827	
141	Friends of the Haines Borough Public Library, Box 1089, Haines, Ak. 99827	Sara Chapell
125	Friends of Recycling Box 822, Haines, Ak. 99827	Melissa Aronson
118	Full-Gospel Christian Association Box 1121, Haines, Ak. 99827	Stewart Adams
181	Great Alaska Council, BSA 3117 Patterson St., Anchorage, Ak. 99504	Clifford Cvismore
138	Haines Animal Rescue Kennel Box 1533, Haines, Ak. 99827	Steve Vick
142	Haines Art Council Box 505, Haines, Ak. 99827	Tom Heywood Chip Lende
170	Haines Assisted Living, Inc. (HAL) Box 916, Haines, Ak. 99827	Vince Hansen
131	Haines 4-H Prep Club Box 354, Haines, Ak. 99827	INACTIVE
172	Haines Baptist Church Box 1245, Haines, Ak. 99827	Russell Simpson
108	Haines Chamber of Commerce Box 1449, Haines, Ak. 99827	Jamie Knudsen
129	Haines Christian Center/Assembly of God Church Box 730, Haines, Ak. 99827	Anthony Nelson
117	Haines Church of Christ Box 16, Haines, Ak. 99827	INACTIVE

Non-Profit Organizations (alpha)

<u>EXEMPT #</u>	<u>NAME OF ORGANIZATION</u>	<u>AUTHORIZED PERSONNEL</u>
157	Haines Cornerstone Church Box 588, Haines, Ak. 99827	
130	Haines Community 4-H Box 875, Haines, Ak. 99827	INACTIVE
163	Haines Dolphins Swim Team Box 1367, Haines, Ak. 99827	Suzanne Vuillet-Smith D. Downer; S. Bradford
124	Haines Emblem Club Box 361, Haines, Ak. 99827	Michelle Stigen
168	Haines Elks Lodge Box 29, Haines, Alaska 99827	INACTIVE
107	Haines Headstart Box 192, Haines, Ak. 99827	Karen Bryant
128	Haines Presbyterian Church Box 264, Haines, Ak. 99827	Ron Horn
136	Haines Senior Citizen Center Inc. Box 801, Haines, Ak. 99827	Leslie Whittington
136-1	Haines Senior Village Box 835, Haines, Ak. 99827	Anne Hanssen
146	Haines Sportman's Assoc. Inc. Box 677, Haines, Ak. 99827	James Studley
137	Haines Women's Club Box 36, Haines, Ak. 99827	Susan Johnston
167	Hammer Museum Box 702, Haines, Ak. 99827	David Pahl
134	Hospice of Haines Box 1034, Haines, Ak. 99827	Beth MacCready Nancy Schnabel
175	Impact Counseling Services, Inc. Box 631, Haines, Ak. 99827	Emily Zimbrich
164	Inside Passage Electric Co-Op Box 210149 Auke Bay, Ak. 99821	Exempt by Code - Political Subd. of the State
115	Klukwan Assembly of God Church Box 422, Haines, Ak. 99827	Odis Ganey
159	LaLeche League of Haines Box 1624, Haines, Ak. 99827	Donna Lambert
112	Lynn Canal Broadcasting Box 1109, Haines, Ak. 99827	Kay Clements
101	Lynn Canal Community Players Box 118, Haines, Ak. 99827	Annette Gregg
148	Lynn Canal Conservation, Inc. Box 964, Haines, Ak. 99827	Scott Carey

Non-Profit Organizations (alpha)

<u>EXEMPT #</u>	<u>NAME OF ORGANIZATION</u>	<u>AUTHORIZED PERSONNEL</u>
111	Lynn Canal Counseling Services Box 90, Haines, Ak. 99827	
161	Nenana Ice Classic, Inc. Box 00272 Nenana, Ak. 99760	Cherrie Forness, Manager
182	New Hope Fellowship HC60 Box 3161, Haines, Ak. 99827	Sage Thomas
102	Northern Light Network/Radio Station KRSA Box 369, Glenallen, Ak. 99588	Jasper Hall
150	Northern S.E. Regional Aquaculture Assoc. (NSRAA) Box 1263, Haines, Ak. 99827	Tom Henderson Tod Buxton
152	Peninsula Home Health Care Box 926, Haines, Ak. 99827	Lisa Schwartz
127	Port Chilkoot Bible Church Box 156, Haines, Ak. 99827	Bill Diggins
155	Rainbow Glacier Camp Box 432, Haines, Ak. 99827	Lucy Tate
151	REACH, Inc. Box 1484, Haines, Ak. 99827	Suzanne Vuillet-Smith Patrick Shallcross
144	Rural Ak. Comm. Action Program (RURAL CAP) P.O. Box 200908, Anchorage, Ak. 99510	Diane Mathesen
153	S.E. Ak. Regional Health Consortium (SEARHC) Box 1549 Haines, Ak. 99827	Marcia Scott
177	S.E. Alaska Independent Living (SAIL) Box 183, Haines, Ak. 99827	Sierra Kaden
105	S.E. Ak. State Fair Box 385, Haines, Ak. 99827	Ross Silkman
120	Sacred Heart Catholic Church Box 673, Haines, Ak. 99827	Joe Adreano
114	Salvation Army Box 550, Haines, Ak. 99827	Kevin & Tina Bottjen
158	SEAPRO 540 Water St., Suite 201 Ketchikan, Ak. 99901	David Owings, Gen. Manager K.A. Swiger
119	S.E. Ak. Area Council Boy Scouts 9220 Lee Smith Drive, Juneau, Ak. 99801	Lane Stumme
103	Sheldon Museum & Cultural Center Box 269, Haines, Ak. 99827	Jerrie Clark Jim Heaton

Non-Profit Organizations (alpha)

<u>EXEMPT #</u>	<u>NAME OF ORGANIZATION</u>	<u>AUTHORIZED PERSONNEL</u>
179	St. Lucy's Senior Living Box 916, Haines, Ak. 99827	Vincent Hansen
171	Takshanuk Watershed Council Box 1029, Haines, Ak. 99827	Brad Ryan
139	Tlingit-Haida Central Council 320 W. Willoughby Ave., Suite 300 Juneau, Ak. 99801	John Katzeek
116	Tlingit-Haida Regional Housing Box 32237, Juneau, Alaska 99803	Joyce Nelson
121	Tongas Alaska Girl Scouts	Troops #98,#99,#100,#101, #104
180	Uglys of Haines Box 698, Haines, Ak. 99827	Chuck Mitman

SALES, SERVICES AND RENTALS TO OR BY A FOREIGN GOVERNMENT, THE U.S. GOVERNMENT, THE STATE OF ALASKA, AND ITS POLITICAL SUBDIVISION AND MUNICIPALITIES AND THEIR POLITICAL SUBDIVISIONS ARE EXEMPT FROM SALES TAX. PAYMENT MUST BE MADE BY PURCHASE ORDER, GOVERNMENT CHECK, GOVERNMENT CHARGE CARDS OR THE SALE MUST BE BILLED TO THE GOVERNMENTAL ENTITY. CASH, PERSONAL CHECKS OR PERSONAL CHARGE CARDS FROM GOVERNMENT EMPLOYEES AT THE TIME OF THE SALE ARE NOT TAX-EXEMPT. IF A CUSTOMER IS PERSONALLY KNOWN BY THE MERCHANT AND THE MERCHANT IS ASSURED THAT A PARTICULAR CASH SALE WOULD BE EXEMPT (SUCH AS A SCHOOL TEACHER PURCHASING A FEW SUPPLIES FOR HIS/HER CLASS FROM PETTY CASH FUNDS) THEN THAT TYPE OF CASH SALE COULD BE SALES TAX EXEMPT.



**Haines Borough
Assembly Agenda Bill**

Agenda Bill No.: 13-297
Assembly Meeting Date: 6/25/13

Business Item Description:	Attachments:
Subject: Consider Late-Filed 2013 Senior Citizen/Disabled Veteran Property Tax Exemption Applications	1. Resolution 13-06-468 2. Recommendation Memo from the Assessor 3. List of Late-Filed Applicants and Reasons they gave for Filing Late
Originator: Contract Assessor	
Originating Department: Assessment & Lands Management	
Date Submitted: 6/11/13	

Full Title/Motion:
Motion: Adopt Resolution 13-06-470

Administrative Recommendation:

Fiscal Impact:		
Expenditure Required	Amount Budgeted	Appropriation Required
\$	\$	\$

Comprehensive Plan Consistency Review:	
Comp Plan Policy Nos.:	Consistent: <input type="checkbox"/> Yes <input type="checkbox"/> No

Summary Statement:

Per HBC 3.70.030(A)(6)(e), if an otherwise qualified claimant is unable to comply with the March 1 filing deadline, they may submit an application for review by the assembly. If it's a valid application, the assembly may, by resolution, waive the failure to file by the deadline, & authorize the assessor to accept it as if timely-filed. An inability to comply must be caused by a serious medical condition of the applicant or member of the applicant's family, or an extraordinary event beyond the claimant's control. The borough received seventeen late-filings for 2013. The assessor reviewed the applications and the reasons the applicants gave for filing late. He requests the assembly accept those applicants whose reason was medical-related, and authorize him to accept each of the following eleven applications as if timely-filed.

Referral:			
Sent to:		Date:	
Recommendation:	Refer to:	Meeting Date:	

Assembly Action:	
Workshop Date(s):	Public Hearing Date(s):
Meeting Date(s): 6/25/13	Tabled to Date:

HAINES BOROUGH
RESOLUTION No. 13-06-468

**A RESOLUTION OF THE HAINES BOROUGH ASSEMBLY AUTHORIZING
ACCEPTANCE OF CERTAIN LATE-FILED 2013 SENIOR CITIZEN/DISABLED
VETERAN PROPERTY TAX EXEMPTION APPLICATIONS.**

WHEREAS, HBC 3.70.030(6) provides that a municipality shall exempt the first \$150,000 of the assessed value of real property owned and occupied as the primary residence and permanent place of abode by a resident 65 years of age or older, a resident at least 60 years old who is the widow or widower of a person who is was qualified for an exemption, or a disabled veteran whose disability has been rated as 50 percent or more, subject to AS 29.45.030; and

WHEREAS, to be eligible for this exemption for a year, the resident shall also meet all requirements for a permanent fund dividend (PFD) under AS 43.23.005 for the same year or for the immediately preceding year; and

WHEREAS, an exemption may not be granted except upon written application for the exemption on a form provided by the borough assessor and filed no later than March 1st of the assessment year for which the exemption is sought; and

WHEREAS, the applicant must file a separate application for each assessment year in which the exemption is sought and if an application is filed by the deadline, and approved by the assessor, the exemption shall be allowed in accordance with the provisions of HBC 3.70.030(6); and

WHEREAS, if an otherwise qualified applicant is unable to comply with the March 1st application filing deadline, they may submit an application to the assessor's office for review by the assembly, and if a valid application has been submitted, the assembly may, by resolution, waive the applicant's failure to file the application by the March 1st deadline, and authorize the assessor to accept the application as if timely-filed; and

WHEREAS, an inability to comply with the March 1st application filing deadline must be caused by either a serious medical condition of the applicant or member of the applicant's family, or an extraordinary event beyond the applicant's control; and

WHEREAS, HBC 3.70.030(6) does not create any private rights whatsoever, nor does it in any manner require the assembly to introduce or adopt a resolution waiving the failure to meet the deadline; and

WHEREAS, the Haines Borough Assessor's Office received seventeen 2013 Senior Citizen/Disabled Veteran Property Tax Exemption Applications after the March 1, 2013 deadline, and the applicants have explained the reasons for the late filings; and

WHEREAS, the assessor reviewed the late-filed applications and he requests the assembly accept those applicants whose reason for late-filing was medical-related, and authorize him to accept each of the following eleven applications as if timely-filed:

Marilyn Wilson – C-TNS-09-0900
Thomas Bieleski – C-ANY-09-0200
Jenny Lee Johnson – C-DAS-0A-1100
John Schnabel – C-ERM-00-0200
Peter & Sherrie Goll – C-PTC-0L-0700
Bruce Gilbert – C-SEC-27-0900
Margaret Mock – C-MOC-00-0200
Richard Woods – 3-CLR-26-0230
Evans Willard – C-OCV-00-0700
Albert Morgan – C-MEA-01-1900
Teresa Hura – C-HGL-05-0200

Haines Borough
Resolution No. 13-06-468
Page 2 of 2

NOW THEREFORE BE IT RESOLVED THAT the Haines Borough Assembly hereby, for each of the above-listed applicants, waives each one's failure to file a timely 2013 Senior Citizen/Disabled Veteran Property Tax Exemption Application, and authorizes the assessor to accept each application as if timely-filed.

ADOPTED by a duly constituted quorum of the Haines Borough Assembly this ____ day of _____, 2013.

ATTEST:

Stephanie Scott, Mayor

Julie Cozzi, MMC, Borough Clerk

May 24, 2013

Haines Borough, Assembly

RE: Senior Citizen Late Files

Assembly Members;

I have reviewed the senior citizen and disable veteran late files and have found that some if not most of the late files have reason to consider for acceptance as late files, but it's up to the Assembly to approve any if not all of the late filers. See Statutes Below.

According to Alaska State Statute: AS 29.45.030 (F):..... Each municipality shall, by ordinance, establish procedures and deadlines for filing the application. The governing body of the municipality for good cause shown may waive the claimant's failure to make timely application for exemption and authorize the assessor to accept the application as if timely filed.

Haines Borough Code: 3.70.030 (6.E) e. An exemption may not be granted under this subsection except upon written application for the exemption on a form provided by the borough assessor. The claimant must file the application no later than March 1st of the assessment year for which the exemption is sought. The claimant must file a separate application for each assessment year in which the exemption is sought.If an otherwise qualified claimant is unable to comply with the March 1st application filing deadline, the claimant may submit an application to the assessor's office for review by the assembly. If the claimant has submitted a valid application, the assembly may, by resolution, waive the claimant's failure to file the application by the March 1st deadline, and authorize the assessor to accept the application as if timely filed. For purposes of this subsection, an inability to comply must be caused by a serious medical condition of the applicant or member of the applicant's family, or an extraordinary event beyond the claimant's control. No late applications can be submitted after November 1st of the qualifying year. This section does not create any private rights whatsoever, nor does it in any manner require the assembly to introduce or adopt any such resolution

A couple further notes:

- A) I've instructed Sue Nelson to call each of the seniors who did not provide a written excuse as to why they were not timely. Sue has compiled a spreadsheet for your connivance of each appeal. Some reasons are definitely medical related, but other are honest older folk reason that someone else handles their mail and billing needs.

- B) It should be considered by the Assembly to adopt AS 29.45.030 (f) provision of using the permanent fund dividend system which would eliminate many if not of this late filing issues.

AS 29.45.030 (f) **(f)** To be eligible for an exemption under (e- Senior or Disabled Vet) of this section for a year, a municipality may by ordinance require that an individual also meet requirements under one of the following paragraphs: (1) the individual shall be eligible for a permanent fund dividend under AS 43.23.005 for that same year or for the immediately preceding year; or (2) if the individual has not applied or does not apply for one or both of the permanent fund dividends, the individual would have been eligible for one of the permanent fund dividends identified in (1) of this subsection had the individual applied. An exemption may not be granted under (e) of this section except upon written application for the exemption.

Based on Borough Code: Here are the Assessor's Recommendations.

- 1) Marilyn Wilson - Medical
- 2) Thomas Bieleski- Medical
- 3) Jenny Lee Johnson- Medical
- 4) John Schnabel- Medical
- 5) Peter & Sherrie Goll- Medical
- 6) Bruce Gilbert- Medical
- 7) Margaret Mock- Medical
- 8) Richard Woods- Medical
- 9) Evans Willard- Medical

10) Albert Morgan - Medical Reason
11) Teresa Hura - Medical Reason

I would also like you to consider the other late filers, they just don't apply to Borough Code, but give some good reasons why they were late. Mainly J. Goenett who came in timely and should have filled out the form then and got the birth certificate to the Borough latter. Also the Hardship Exemption still needs to be worked out. It's in Borough code but has not been used in the past and currently at least two seniors have express interest in applying but we don't have the form made up yet for them to fill out. Because of their interest being express they should qualify for the hardship exemption. Others also once the word gets out regarding qualifying. Deadline Dates do need to be posted on the Boroughs website, radio and in the paper as reminders.

If you have any questions , please do not hesitate to ask.

Sincerely;

James Canary, Assessor

2013 LATE FILED SENIOR EXEMPTION APPLICATIONS---SORTED by DATE FILED

PRIOR YEAR(s) and NEW SENIORS--2013 Applications Filed Late (after 03/01/13)	SORTED BY DATE FILED	LAST NAME	FIRST NAME	ADDRESS	CITY	STATE	ZIP	TAX ID NO	REASON FOR FILING LATE--(Assessor, James Canary instructed staff to accept reason as stated on form or statement over phone) UPDATED as of 6/20/13
NEW 2013 Applicant	03/04/13	SCOTT	STEPHANIE	BOX 431	HAINES	AK	99827	4-MBR-06-02C0	S.SCOTT STATED THAT THE FORMS WERE DUE ON FRIDAY, 3/1/13 AND SHE SUBMITTED HER FORMS ON THE FOLLOWING MONDAY, 3/4/13. SHE SUGGESTED THIS DATE BE POSTED ON THE BOROUGH WEBSITE NEXT YEAR.
NEW 2013 Applicant	03/04/13	CHAVEZ	DANIEL	BOX 1676	HAINES	AK	99827	C-SEC-35-170B	D.CHAVEZ HONESTLY THOUGHT FORMS WERE DUE BY END OF MARCH. WHEN HE BROUGHT IN FORM ON MARCH 4TH--HE HONESTLY THOUGHT HE WAS EARLY.
NEW 2013 Applicant	03/11/13	GOENETT	JUDY/JACOB	BOX 357	HAINES	AK	99827	C-STR-02-24N0	J.GOENETT CAME INTO BORO OFFICE IN JAN.'13 TO GET FORMS AND WAS TOLD SHE NEEDED A COPY OF HER BIRTH CERT.--SHE IMMEDIATELY WENT ONLINE AND ORDERED A COPY OF HER BIRTH CERT.---SHE BROUGHT IT INTO THE OFFICE AS SOON AS SHE REC'D IT IN THE MAIL--ON MARCH 11TH
PRIOR YEAR SENIOR	03/15/13	LAND	DAVID/TERESA	BOX 562	HAINES	AK	99827	C-STR-02-4900	THE LAND ARE PRIOR YEAR APPLICANTS THAT ARE OVERWHELMED BY WORK SCHEDULES 7AM TO 8PM. THEY REGRET THEY FORGOT TO MAIL FORMS. THEY PLEAD FOR THE ASSEMBLY TO EXTEND THEIR EXEMPTION AS THEY DEPEND ON THIS WITH THEIR FINANCES SO TIGHT.
NEW 2013 Applicant	03/21/13	HURA	TERESA/LARRY	BOX 1184	HAINES	AK	99827	C-HGL-05-0200	T.HURA WAS IN WASHINGTON TAKING CARE OF HER 91 YR OLD MOTHER, WHO HAD TAKEN A BAD FALL.
PRIOR YEAR SENIOR	03/25/13	WILSON	MARILYN	BOX 235	HAINES	AK	99827	C-TNS-09-0900	M.WILSON IS DEALING WITH HEALTH PROBLEMS--MEDICATION ISSUES AND MEMORY ISSUES
NEW 2013 Applicant	03/28/13	EDWARDS	DIANA/MARK	BOX 682	HAINES	AK	99827	4-MBR-05-03A0	D.EDWARDS WAS TOLD SHE COULD NOT APPLY UNTIL JAN 1ST. WHEN SHE TURNED 65--HOWEVER, SHE WAS OUT OF TOWN AND CAME IN IMMEDIATELY UPON HER RETURN ON MARCH 28TH.
PRIOR YEAR SENIOR	04/02/13	BIELESKI	THOMAS	BOX 71	HAINES	AK	99827	C-ANY-09-0200	T.BIELESKI WAS UNDERGOING CANCER TREATMENT THIS PAST WINTER
PRIOR YEAR SENIOR	04/04/13	JOHNSON	JENNY LEE	BOX 1287	HAINES	AK	99827	C-DAS-0A-1100	J.JOHNSON CANNOT SEE AND HER NIECE STOPPED BY & FOUND FORMS IN HER STACK OF MAIL
PRIOR YEAR SENIOR	04/04/13	SCHNABEL	JOHN/ERMA	BOX 149	HAINES	AK	99827	C-ERM-00-0200	J.SCHNABEL WAS UNDERGOING CANCER TREATMENT & SURGERY IN JAN-FEB IN SEATTLE & ANCHORAGE. ALSO CARING FOR HIS WIFE, WHO IS NEARLY BLIND & IN ASSISTED LIVING
NEW 2013 Applicant	04/09/13	GOLL	PETER/SHERRIE	BOX 261	HAINES	AK	99827	C-PTC-0L-0700	P.GOLL AND HIS WIFE WERE OUT OF THE STATE RECEIVING MEDICAL ATTENTION. HE WAS NOT ABLE TO GET THE FORMS IN BY THE FILING DATE. HE FILED AS SOON AS HE WAS ABLE.
PRIOR YEAR SENIOR	04/10/13	GILBERT	BRUCE	BOX 388	HAINES	AK	99827	C-SEC-27-0900	B.GILBERT WAS CARETAKING HIS WIFE-SUFFERING WITH MENTAL/PHYSICAL HANDICAP
PRIOR YEAR SENIOR	04/12/13	NANNEY	DAVID	BOX 387	HAINES	AK	99827	C-PTC-0L-060S	D.NANNEY INTENDED TO BE EARLY & CAME BY OFFICE IN JAN.'13 W/COMPLETED FORMS & OFFICE WAS CLOSED FOR HOLIDAY--HE THEN INTENDED TO RETURN WHEN OFFICE WAS OPEN & FORGOT TO SUBMIT FORMS
NEW 2013 Applicant	04/15/13	MOCK	MARGARET	BOX 629	HAINES	AK	99827	C-MOC-00-0200	M.MOCK WAS OUT OF THE STATE GETTING MEDICAL TREATMENT
PRIOR YEAR SENIOR	04/15/13	WOODS	RICHARD/BARBARA	HC 60, BOX 2609	HAINES	AK	99827	3-CLR-26-0230	R.WOODS WAS UNDERGOING CANCER TREATMENT THIS PAST WINTER
PRIOR YEAR SENIOR	04/18/13	WILLARD	EVANS/DOROTHY	BOX 213	HAINES	AK	99827	C-OCV-00-0700	D.WILLARD WAS NOT ABLE TO COMPLETE FORM AND GET IT IN ON TIME DUE TO MEDICAL REASONS. SHE ALSO SAID SHE IS OLD AND HAS TROUBLE WITH MEMORY ISSUES.
PRIOR YEAR SENIOR	04/29/13	MORGAN	ALBERT D.	BOX 1374	HAINES	AK	99827	C-MEA-01-1900	A.MORGAN HAD A HEART ATTACK AND WAS RECOVERING IN ANCHORAGE



Agenda Bill No.: 13-294
 Assembly Meeting Date: 6/25/13

Business Item Description:	Attachments:
Subject: Early Retirement Incentive Program	1. Resolution 13-06-469 2. Proposed Program Information
Originator: Assembly	
Originating Department:	
Date Submitted: 6/17/13	

Full Title/Motion:
 Motion: Refer Resolution 13-06-469 to the Personnel and Finance Committees

Administrative Recommendation:

Fiscal Impact:

Expenditure Required	Amount Budgeted	Appropriation Required
\$	\$	\$

Comprehensive Plan Consistency Review:

Comp Plan Policy Nos.:	Consistent: <input type="checkbox"/> Yes <input type="checkbox"/> No
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Summary Statement:
 Consideration of this type of program was requested by members of the assembly. In the proposed program, if all eligible employees participate and those employees were replaced at step 2 the "payout" would be paid back in less than 9 months with savings from the lower wages.

Referral:

Sent to:	Date:
Recommendation:	Refer to: Meeting Date:

Assembly Action:

Workshop Date(s):	Public Hearing Date(s):
Meeting Date(s): 6/25/13	Tabled to Date:

HAINES BOROUGH
RESOLUTION No. 13-06-469

A Resolution of the Haines Borough Assembly Authorizing an Early Retirement Incentive Program during the period of July 15, 2013 through November 30, 2013.

WHEREAS, the Haines Borough is anticipating a budget shortfall for the FY14 fiscal year; and

WHEREAS, the future of certain State and Federal revenues such as State Revenue Sharing, Federal Payment in Lieu of Taxes and Federal Secure Rural Schools are uncertain; and

WHEREAS, the Haines Borough appreciates the years of service contributed by its long term employees; and

WHEREAS, the Haines Borough has reviewed the cost estimate and determined that the adoption of an early retirement incentive program is in the best interest of the Haines Borough,

NOW, THEREFORE, BE IT RESOLVED, that the Haines Borough Manager is hereby authorized to finalize and offer an early retirement incentive program during the period of July 15, 2013 through November 30, 2013.

ADOPTED by a duly constituted quorum of the Haines Borough Assembly this ____ day of _____, 2013.

Stephanie Scott, Mayor

Attest:

Julie Cozzi, MMC, Borough Clerk



Haines Borough Early Retirement Incentive Program

What is the Haines Borough Early Retirement Incentive Program?

The Early Retirement Incentive Program is a “voluntary” process that offers employees a severance package to resign between **July 15, 2013 and November 30, 2013**, as a budget reduction measure. **The application must be filed between July 1, 2013 and July 31, 2013, with no applications after that date being accepted.** No penalty is imposed on any employee that elects not to participate in the program.

Eligibility Requirements:

Eligibility to participate in the Haines Borough Early Retirement Incentive Program is as follows:

- You must be currently employed in a regular full-time or part-time position with the Haines Borough. Seasonal or temporary employees are not eligible.
- You must have at least 20 years of continuous, regular-status Haines Borough service as of the date of separation of service

What are the benefits to taking the Early Retirement Incentive Program?

Employees who elect the voluntary severance program will receive a cash payment equal to eight (8) weeks of base pay and \$500 for each year served in excess of 20 years. Additionally employees will receive a payout of any accrued unused annual leave.

How will the Voluntary Severance Program be paid?

The Early Retirement Benefits will be paid in a separate payment along with your last regular pay check. The severance benefits as well as the annual leave payout are subject to federal income tax, FICA Med, and SBS but are not subject to PERS.

The Haines Borough does not warrant or guarantee the tax consequences of participation in this program. Employee should consult with a tax advisor of their choice as to any tax consequences.

The Haines Borough does not warrant or determine that any of the benefits provided under this program are community property subject to equitable division. Employees should consult with a legal advisor as to any community property issues.

Waiver and Release of Claims:

Employee agrees to release the Haines Borough, its elected officials, employees, officers and agents from all claims or demands Employee may have or may have had arising out of Employee’s employment with the Borough, including but not limited to participation in this voluntary severance program. This release includes but not limited to:

1. Release of any claims, cause of action or damages arising under the Age Discrimination in Employment Act as amended.
2. Release of any claims, cause of action or damages arising under the Family and Medical Leave Act, Older Workers’ Benefit Protection Act and any other basis.
3. After this waiver is executed, this release does not apply to any claims that arise after that date. The consideration for this waiver and release is employee’s participation in and receipt of benefits under this program.
4. PLEASE NOTE THAT EXECUTION OF THIS APPLICATION CONTAINING THIS WAIVER AND RELEASE OF CLAIMS MAY HAVE LEGAL CONSEQUENCES. YOU ARE ADVISED TO CONSULT WITH A LEGAL ADVISOR OF YOUR CHOICE.

Period for Review:

Employees have between **July 1, 2013 and July 31, 2013** to review and consider entering into this “Early Retirement Incentive Program”. Election to participate in the “Early Retirement Incentive Program” is entirely voluntary and employees are under no obligation to elect participation.

Right to Revoke Agreement:

Employee may revoke this Agreement **within seven (7) business days** of Employee making the election. Revocation must be made in writing and received by the Borough Clerk no later than close of business of the seventh (7th) business day after Employee makes the election.

Termination of Employment:

By electing the “Early Retirement Incentive Program”, Employee agrees to the following conditions:

- Employee must resign his/her position with the Haines Borough between **July 15, 2013 – November 30, 2013.**
- Employee understands for acceptance of the application for voluntary severance employee is required to maintain a satisfactory performance. Failure to do so may result in discipline up to and including termination.

Application Process:

Employees who elect to participate in the Early Retirement Incentive Program are required to complete the “Early Retirement Incentive Program Application and accept the terms of the program. **The application period will begin at 8:00am. July 1, 2013 and end at 5:00 pm July 31, 2013.**

Employees should review **all** program documents provided in order to make an informed election.

Please feel free to contact the Borough Clerk at (766-2231) if you have any further questions concerning the Haines Borough Early Retirement Incentive Program.



Agenda Bill No.: 13-296
 Assembly Meeting Date: 6/25/13

Business Item Description:	Attachments:
Subject: Request a Haines Legislative Information Office	1. Resolution 13-06-470 2. Feb. 2013 Haines Borough Letter to Rep. Hawker
Originator: Mayor	
Originating Department:	
Date Submitted: 6/17/13	

Full Title/Motion:
Motion: Adopt Resolution 13-06-470

Administrative Recommendation:

Fiscal Impact:		
Expenditure Required	Amount Budgeted	Appropriation Required
\$	\$	\$

Comprehensive Plan Consistency Review:	
Comp Plan Policy Nos.:	Consistent: <input type="checkbox"/> Yes <input type="checkbox"/> No

Summary Statement:
Library Director Patty Brown and Mayor Scott have been in conversation with Sue Cotter regarding funding for a legislative information office (LIO) in Haines all winter. The cost to the state has been developed based on input from Patty Brown. The library board supports housing an LIO in the library. Any personnel costs associated with the LIO would be borne by the State of Alaska.

Referral:			
Sent to:		Date:	
Recommendation:	Refer to:	Meeting Date:	

Assembly Action:	
Workshop Date(s):	Public Hearing Date(s):
Meeting Date(s): 6/25/13	Tabled to Date:

HAINES BOROUGH
RESOLUTION No. 13-06-470

A Resolution of the Haines Borough Assembly requesting the Legislative Affairs Council authorize and fund a Legislative Information Office in Haines, Alaska.

WHEREAS, the residents of the Haines Borough desire to connect effectively with state government during the legislative session; and

WHEREAS, effectiveness depends on accurate communication; and

WHEREAS, accurate communication so often depends on first-hand acquisition or delivery of information; and

WHEREAS, the creation of Legislative Information Offices (LIO) in outlying regions was developed to facilitate communication and participation in state government by Alaskan residents for whom distance and finances prohibit travel to Juneau; and

WHEREAS, the Haines Borough is mindful of state fiscal constraints and thus desires to shoulder a share of the burden of creating an LIO by donating space and technology for a total reduction of start-up costs by \$14,050 and on-going costs by \$31,200 for a total cost to the state of approximately \$53,500 for a session-only 6-month LIO, with the largest portion of the costs allocated to the key to the operation – a Legislative Information Officer; and

WHEREAS, the cost of a Haines session-only LIO at \$53,500 compares favorably with the full cost of an LIO as estimated by the Manager of the Legislative Affairs Agency at \$98,750 for Haines,

NOW, THEREFORE, BE IT RESOLVED:

Section 1. The Haines Borough Assembly respectfully requests the Legislative Affairs Council to formally consider establishing a session-only Legislative Information Office in the Haines Borough in collaboration and cooperation with the Haines Borough Library; and

Section 2. Copies of this Resolution shall be delivered to Representative Mike Hawker, Chair, Legislative Council; Senator Bert Stedman; Representative Jonathan Kriess-Tomkins; Sue Cotter, Manager, Legislative Affairs Agency, Information and Teleconferences; and Patty Brown, Library Director, Haines Borough.

ADOPTED by a duly constituted quorum of the Haines Borough Assembly this ____ day of _____, 2013.

Stephanie Scott, Mayor

Attest:

Julie Cozzi, MMC, Borough Clerk



HAINES BOROUGH, ALASKA
P.O. BOX 1209 • HAINES, ALASKA 99827
Administration 907.766.2231 • (fax) 907.766.2716
Tourism 907.766.2234 • (fax) 907.766.3155
Police Dept. 907.766.2121 • (fax) 907.766.2128
Fire Dept. 907.766.2155 • (fax) 907.766.3373

February 10, 2013

Representative Mike Hawker
Chair, Legislative Council
State Capitol, Room 502
Juneau, AK 99801-1182

RE: LIO for the Haines Borough

Dear Representative Hawker:

I would very much like to register our community's desire to host a Legislative Information Office. We are, however, mindful of the cost for this service. To this end, we hope to collaborate with the State to cut costs by possibly housing the service in our library. I believe that Sue Cotter has had discussions the Borough Library Director to this end. The purpose of this letter is to underscore the need.

We are a growing community with a diversity of opinions. However, we are all united in our desire to stay connected to our state government. We believe that the best way to achieve this is through the non-partisan services of the Legislative Information Office. In our efforts to be included in state level discussions, we have cobbled together various relatively antiquated technologies in order to participate. In doing so, we have noted the value of residents with different points of view coming together in the same venue to express those points of view to the legislators, or to simply listen quietly, should to shoulder, to discussions. This is, perhaps, a hidden benefit of the non-partisan LIOs around the state. We would very much like to benefit as others do. We hope that your Committee will be able to work with us to achieve our dream of a Haines Legislative Information Office.

Thank you.

Sincerely yours,

Stephanie Scott
Mayor, Haines Borough
907-766-2231, ext. 30
907-314-0654 (cell)

Cc: Senator Bert Stedman
Representative Jonathan Kreiss-Tomkins
Patricia Brown, Haines Borough Library Director



**Haines Borough
Assembly Agenda Bill**

Agenda Bill No.: 13-295
Assembly Meeting Date: 6/25/13

Business Item Description:	Attachments:
Subject: Letter to ADOT&PF regarding the spraying of herbicides & pesticides on state roadways in the Haines Borough	1. Proposed Letter Drafted by the Mayor 2. City of Petersburg Letter
Originator: Mayor	
Originating Department:	
Date Submitted: 6/17/13	

Full Title/Motion:
Motion: Confirm the draft letter to ADOT&PF Commissioner Kemp regarding herbicide and pesticide use in the Haines Borough

Administrative Recommendation:

Fiscal Impact:		
Expenditure Required	Amount Budgeted	Appropriation Required
\$	\$	\$

Comprehensive Plan Consistency Review:
Comp Plan Policy Nos.: _____ Consistent: Yes No

Summary Statement:
The mayor has received several requests from residents to consider some way the borough could prevent the utilization of herbicides and pesticides by ADOT&PF along our roadway. Following Petersburg's lead, the mayor suggests sending a letter to notify ADOT&PF of our concerns, and she has drafted one for the assembly's consideration. Matt Boron, foreman of the local ADOT maintenance crew, states he has had not instructions to use herbicides and the Haines shop is not in possession of any sprayers. However, it may be prudent to advise ADOT&PF upper level management of our concerns

Referral:
Sent to: _____ Date: _____
Recommendation: _____ Refer to: _____ Meeting Date: _____

Assembly Action:
Workshop Date(s): _____ Public Hearing Date(s): _____
Meeting Date(s): 6/25/13 Tabled to Date: _____

June 25, 2013

DRAFT FOR ASSEMBLY REVIEW

Pat Kemp, Commissioner
Alaska Department of Transportation
PO Box 112506
Juneau, AK 99811

Re: Herbicide and Pesticide use in the Haines Borough

Dear Commissioner Kemp,

The Alaska Department of Environmental Conservation's decision earlier this year to eliminate the public review process and permitting requirements for using chemicals on state lands deeply concerns the Haines Borough. At a minimum, the Haines Borough requests that DEC reinstate a public review process, including right of appeal, for the potential use of herbicides and pesticides within the borough.

Most of the Haines Borough roadways lie adjacent to, or cross anadromous streams and salmon habitat. The Haines Highway passes through the world class Alaska Chilkat Bald Eagle Preserve, home to the largest gathering of Bald Eagles. Spraying herbicides and pesticides has the potential to harm the environment, fish, wildlife, and human health. Healthy salmon returns for commercial, sport and subsistence fisheries provide major economic benefit to Southeast Alaskans. There is a wealth of scientific literature that links pesticide and herbicide contamination with salmon mortality as well as non-lethal impacts that result in lowered survival rates. Many salmon spawn in waterways adjacent to Haines' roadways. The commercial value of the Lynn Canal salmon fishery ranges from \$1 million to \$3.4 million annually.

Pesticide and herbicide use near residences and areas that our citizens use for gathering food, medicinal substances, or craft materials is inherently dangerous. Use within watersheds that provide drinking water for communities or individuals also poses serious threats. Pesticides and herbicides contain toxic chemicals which rapidly disperse in our

local rainforest environment. They have been linked with numerous environmentally caused cancers and may have additional detrimental effects that are presently unknown.

Article 10 of the State Constitution clearly provides broad powers to local governments. **Home Rule** local governments enjoy even broader powers. Article 10, Section 11 of Alaska's Constitution provides that: "A home rule borough or city may exercise **all** legislative powers not prohibited by law or by charter. Adoption of a Home Rule charter promotes maximum local self-government to the greatest extent possible."

In the past, the community of Haines has opposed the spraying of toxic herbicides or pesticides along borough roadways and on public lands. The Haines Borough continues to strongly oppose the use of herbicides and pesticides on roadways and public lands in the borough.

Protecting our residents and the environment from potential damage caused by using toxic chemicals along roadways in the Chilkat and Chilkoot watersheds and within the Alaska Chilkat Bald Eagle Preserve are of utmost importance to the Haines Borough.

Thank you for your consideration of this matter.

Sincerely,

Stephanie Scott
Mayor, Haines Borough

Cc: Senator Bert Stedman
Representative Jonathan Kreiss-Tomkins
Representative Les Gara
Al Clough, Assistant Commissioner
Matt Boron, DOT, Haines



June 17, 2013

Commissioner Patrick J. Kemp,
Department of Transportation & Public Facilities
PO Box 112500
3132 Channel Drive
Juneau, Alaska 99811-2500

Re: Herbicide and Pesticide applications in the Petersburg Borough

Dear Commissioner Kemp;

The Petersburg Borough has learned that earlier this spring, regulations were adopted that would allow state agencies to apply herbicides and pesticides on state property and rights of way without obtaining a permit from the Department of Environmental Conservation and without public review. The Petersburg Borough is very concerned that this action denies our citizens the right to participate in the decision-making process and jeopardizes our community. The broad application of herbicides and pesticides can and does affect drinking water, aquatic habitat, and impacts traditional food gathering areas. In addition, this process exposes our children and pets to harmful, possibly carcinogenic, toxins.

These regulations were adopted despite widespread public opposition across the state. The people of Alaska collectively own our public water supply, our fish and our wildlife resources. We strongly feel that we should have a voice regarding if and when there are any plans which might negatively impact those resources within our area. The 30-day notification requirement prior to application that was adopted, allows for no public input. This falls way short of providing our citizens a voice.

Alaska markets our wild salmon to the world by touting our pristine waters. Applying toxic chemicals to the upland habitat would certainly make that a questionable claim. Spraying our uplands could negatively impact productivity of local salmon streams. Even the small tributaries are important fish rearing habitat. Also, many out-the-road residents rely on surface run-off and small streams for their drinking water. Many of our residents gather berries, fiddlehead ferns, and other traditional foods along roadways in our area. If herbicides and pesticides are applied, there is simply no way to protect against contamination. This is particularly true in our island rain forest ecosystem where anything applied to the land is rapidly washed into adjacent waterways and eventually into salt water by the rain.

You may recall that several years ago the Department of Transportation announced plans to spray herbicides to control plant growth along Mitkof Highway. The people of

Petersburg expressed strong opposition and that program was stopped before it got started. Some were opposed to the visual impact, but most were more concerned that toxic residue would contaminate residential runoff-based water supplies and run into aquatic habitats and impact fish productivity. Those concerns have not changed. ADOT went back to mowing the roadsides and, although that method is more labor intensive, it has kept the vegetation down and kept toxic chemicals out of the island's water supplies and waterways.

Article 10 of the State Constitution clearly provides broad powers to local governments. **Home Rule** local governments enjoy even broader powers. Article 10, Section 11 of Alaska's Constitution provides that: "A home rule borough or city may exercise all legislative powers not prohibited by law or by charter. Adoption of a Home Rule charter promotes maximum local self-government to the greatest extent possible."

Given that language in the constitution, it certainly seems that the Borough, not the state, should be making the decision on whether or not it is important to protect our primary industry and protect the residents of the borough from toxic contamination. We feel strongly the large-scale application of herbicides and pesticides should not be allowed within our Borough. This is the best way to protect our citizens and the waterways of our community.

The Borough hopes that it does not have to consider the adoption of an ordinance and land use restrictions that will ban the large-scale application of herbicides and pesticides within Borough boundaries. At the very least any plans to apply herbicides or pesticides should require a public review process and approval by the Assembly before application could occur.

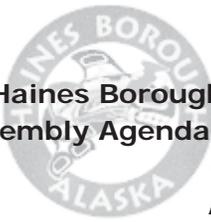
We would appreciate your immediate attention to this issue.

Sincerely,

Susan Flint
Mayor Protem
Petersburg Borough

Distribution

KFSK Radio
Petersburg Pilot
Senator Dennis Egan (email)
Representative Beth Kerttula (email)



**Haines Borough
Assembly Agenda Bill**

Agenda Bill No.: 13-298

Assembly Meeting Date: 6/25/13

Business Item Description:		Attachments:
Subject:	Redistricting - Haines Borough's involving in the process	1. Memo from the Mayor with attachments, including adopted Resolution 12-05-363. 2. 5/30/13 Court Order re. Redistricting
Originator:		
Originating Department:		
Date Submitted:		
6/17/13		

Full Title/Motion:
A motion may come out of assembly discussion as they consider the matter and various options.

Administrative Recommendation:

Fiscal Impact:		
Expenditure Required	Amount Budgeted	Appropriation Required
\$	\$	\$

Comprehensive Plan Consistency Review:	
Comp Plan Policy Nos.:	Consistent: <input type="checkbox"/> Yes <input type="checkbox"/> No

Summary Statement:
The borough attorney informed that the Fairbanks Superior Court sent the Alaska Redistricting Board back to work on an aggressive schedule of daily work meetings followed by a series of public hearings in order to produce Alaska voting districts based on the Alaska Constitution. It is possible that this process will result in re-districting Haines, moving Haines from its association with Sitka & other rural communities, and aligning Haines with the Northern Mendenhall Valley & Skagway. How should the Haines Borough participate in this process? Prepare a statement defending our alignment with Sitka & present it during the July 2 public hearing? Wait and see what plan is produced and whether it changes the boundaries from those we objected to in 2012 (through adopted Resolution 12-05-363)? Should at least one person at least be assigned to listen to the teleconferenced hearing July 2?

Referral:			
Sent to:		Date:	
Recommendation:	Refer to:	Meeting Date:	

Assembly Action:	
Workshop Date(s):	Public Hearing Date(s):
Meeting Date(s): 6/25/13	Tabled to Date:

Memorandum

Haines Borough
Office of the Mayor
103 Third Avenue S.
Haines, Alaska 99827
sscott@haines.ak.us
Voice (907) 766-2231 ext. 30

June 18, 2013

To: Haines Borough Assembly Members

Cc: Mark Earnest, Manager; Julie Cozzi, Borough Clerk; Brooks Chandler, Borough Attorney

From: Stephanie Scott, Mayor, Haines Borough

Subject: Expenditure of Borough resources to build administrative record in support of its position expressed in adopted Resolution 12-05-361 (attached), objecting to inclusion of the Haines Borough in the Northern Mendenhall Valley District 31.

Borough Attorney Brooks Chandler alerted us to the Fairbanks Superior Court order by Judge Michael McConahy that sent the Alaska Redistricting Board back to work on an aggressive schedule of daily work meetings in order to produce Alaska voting districts that adhere to the Hickel Process and the Alaska State Constitution. The meetings will be followed by a series of public hearings. The hearings are scheduled for June 28 in Anchorage, July 1 in Fairbanks, and July 2 in Juneau.¹ It is possible that this process will result in re-districting Haines, moving Haines from its association with Sitka and other rural communities, and aligning Haines with the Northern Mendenhall Valley and Skagway.

The Board has been ordered to present districts based on the Alaska Constitution. Sometimes this is referred to as the Hickel Process.² Hickel Plans and the process

¹ "The Board contends it is not required to hold hearings," McConahy wrote in his ruling. "It is wrong. Any argument that the hearings held in 2011 on plans that were found to be unconstitutional is inartful at best. At worst it is a sad commentary upon Alaskan life and constitutional principles."

Read more here: <http://www.adn.com/2013/05/30/2921276/judge-scolds-alaska-redistricting.html#storylink=cpy>

² "Hickel plan," which the court established in the early 1990s. By that plan, a redistricting board is, first, to draw election boundaries according to the Alaska Constitution. Only then, if those

require districts to be contiguous, compact, and relatively socio-economically integrated³.

The question before you today is how shall the Borough participate in this process? Shall we prepare a statement defending our alignment with Sitka as opposed to the Northern Mendenall Valley and present it during the July 2 public hearing? Or shall we wait and see what plan is produced and if it changes the boundaries from those we objected to in 2012? Perhaps minimally we should assign one of us to listen to the teleconferenced hearing July 2.

Attorney Brooks Chandler advises as follows in a June 17 email:

...the Assembly already has taken an official position AGAINST being combined with Juneau... (court filing attached).

It is more an issue of building an administrative record in support of this position and how much effort the Borough wishes to devote to that task. Some community needs to go with part of Juneau based on the math of redistricting (relatively equal numbers of people in each House district). This results from the loss of population in other parts of SE since the last redistricting. Given the commercial ties between Haines and Juneau it is not an easy case to make that Haines is not the place to add to Juneau but it has been made in previous redistricting efforts and could certainly be made again. There really is not a lot of information in this redistricting Board record on this issue. Petersburg has staked its position more on an issue called "compactness" which is a lot easier to discuss since all it takes is looking at a map

I don't know where this sits on a list of Borough priorities. It would likely require a staff person to be designated to collect information about how "different" Haines is from Juneau and then making sure that information made it into the Board record via citizen testimony at the public hearings. A starting point is comparing census data for the two communities but there is a second level to go to regarding how the economies of the two communities differ. And there is a related argument as to whether Haines or Sitka or Skagway is "more" like Juneau from a socioeconomic standpoint

lines need to be modified to satisfy the federal Voting Rights Act, should modification follow -- and then only enough to meet federal standards.

Read more here: <http://www.adn.com/2013/06/06/2930103/our-view-we-need-a-better-way.html#storylink=cpy>

³ <http://www.akredistricting.org/legalrequirements.html>

My office could assist in this but that would become pretty expensive pretty quickly and with the result so uncertain this may not be where the Borough wants to direct legal resources/budget.

Brooks Chandler
Boyd, Chandler & Falconer LLP

Attachments:

Haines Borough Resolution 12-05-363, Adopted
Objection of the Haines Borough to Amended Proclamation Districts

**A RESOLUTION OF THE HAINES BOROUGH ASSEMBLY AUTHORIZING THE
BOROUGH ATTORNEY TO FILE OBJECTIONS TO AMENDED PROCLAMATION
HOUSE DISTRICT 31.**

WHEREAS, the Assembly previously adopted Resolution 11-03-267 which requested the Redistricting Board ("Board") to maintain the Haines Borough's traditional inclusion in a House District with other rural communities which were relatively socioeconomically integrated with the Borough rather than include Haines Borough residents in a House District with residents of the City and Borough of Juneau; and

WHEREAS, the Assembly previously adopted Joint Resolution 11-04-268 together with the Municipality of Skagway which requested the Redistricting Board to adopt a redistricting map similar to one proposed by Alaskans For Equitable Redistricting which would place Haines in a House District with a population of Alaska Native residents sufficient to qualify the district as a Southeast Alaska Native Minority Influence District for purposes of the federal voting rights act; and

WHEREAS, the Board initially included a Proclamation House District in its statewide redistricting plan ("Proposed Plan") which substantially satisfied the requests made by in the two Resolutions; and

WHEREAS, the Borough determined not to oppose the Proposed Plan; and

WHEREAS, the Proposed Plan, including its designation of House Districts for Southeast Alaska, was challenged in multiple lawsuits which have been combined into a single case currently before the Alaska Supreme Court ("the Redistricting Lawsuit"); and

WHEREAS, on May 10, 2012, the Board was ordered by the Alaska Supreme Court to reconsider the formulation of Southeast Alaska House Districts contained in the Proposed Plan without consideration for the federal voting rights act; and

WHEREAS, on May 14, 2012 the Board adopted an Amended Proclamation House District 31 which included the Haines Borough with a portion of the City and Borough of Juneau; and

WHEREAS, the Alaska Supreme Court, set a deadline of May 18, 2012 for submission of objections to the Amended Proclamation House Districts for Southeast Alaska; and

WHEREAS, the Borough has not previously participated in the Lawsuit but believes it is in the public interest of the residents of the Borough to file objections to the proposed Amended Proclamation House District 31,

NOW, THEREFORE, IT IS HEREBY RESOLVED AS FOLLOWS:

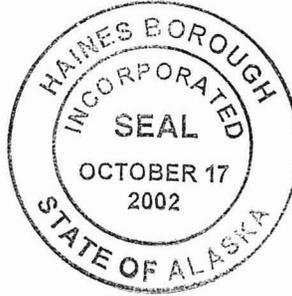
1. The Borough Attorney is authorized to request the Alaska Supreme Court to allow the Haines Borough to participate in the Lawsuit by filing objections to the proposed Amended Proclamation House District 31 and to lodge proposed objections with the Alaska Supreme Court by the May 18 deadline.

Adopted by a duly-constituted quorum of the Haines Borough Assembly on this 18th day of May, 2012.


Stephanie Scott, Borough Mayor

Attest:


Julie Cozzi, MMC, Borough Clerk



IN THE SUPREME COURT FOR THE STATE OF ALASKA

IN RE 2011 Redistricting Cases)
) Supreme Court No. S-14721
)

Trial Court Case No. 4FA-11-02209 CI
Consolidated Cases # 4FA-11-2213 CI/1JU-11-0782 CI

**OBJECTION OF HAINES BOROUGH TO AMENDED
PROCLAMATION HOUSE DISTRICTS**

Argument.

The Haines Borough (“Haines”) objects to the proposed interim plan submitted by the Redistricting Board (“Board”) as Exhibit A to the Board’s Notice of Compliance on May 15, 2012. Haines, by adoption of Resolution 11-03-267 on March 22, 2011, requested the Board to maintain Haines’ traditional inclusion in a House District with other rural communities, rather than include Haines residents with residents of the City and Borough of Juneau (Ex. A). The basis for this request was the similar socioeconomic interests shared by residents of other rural Southeast communities with residents of the Haines Borough, and the lack of similar socioeconomic interests between Haines residents and Juneau residents¹.

¹ A similar resolution was approved by Haines jointly with the City of Skagway on the basis of the Voting Rights Act by adoption of a joint Resolution 11-04-268 on April 5, 2011. (Ex. B) Haines recognizes that the Court’s order of

Until May 14, the Board acted consistently with Haines' request.

The Board's "Notice of Compliance" notes that the Board made "findings" that the proposed interim plan complied with Art. VI, Sec. 6 requirements of relatively socioeconomically integrated House Districts". After a review of the transcript of the Board's May 14 meeting, the phrase "it's deja vu all over again"² comes to mind. Just as the Board focused nearly exclusively on the Voting Rights Act in assembling its initial redistricting plan, now it has overemphasized "compactness" and not fully considered the relative socioeconomic integration of proposed Southeast House Districts. The total consideration of the Board on this issue consisted of first, asking counsel whether the proposed "Option A" met this

May 10, 2012 found that there was no reason to shape Southeast Districts based on the Voting Rights Act, but respectfully disagrees with this conclusion. Adopting the proposed Amended Proclamation Plan for the redistricting of Southeast Alaska foolishly places the 2012 election at risk of being denied pre-clearance by the Department of Justice, thereby jeopardizing an orderly 2012 electoral process. This risk could be avoided by approving an interim plan for 2012, which does not inject a new Voting Rights Act issue into the mix and which has already been pre-cleared by the Department of Justice. e.g. *Hickel v. Southeast Conference*, 846 P.2d 38, 51 n.22, n.23 (Alaska 1992)(recognizing that expediency in approving an interim plan justified ensuring compliance with the Voting Rights Act over ensuring "unnecessarily" compromising Art. VI, Sec. 6 and authorizing approval of a Southeast interim plan that was not compact in order to ensure compliance with the VRA).

²Berra, Y. "The Yogi Book- I Really Didn't Say Everything I Said"
Workman Publishing.

requirement who replied “I don’t think there is any issues here at all with socioeconomic integration”;³ and then determining that any configuration of Southeast Districts would meet the socioeconomically integrated test. “[B]ecause Southeast Alaska is served by the Alaska ferry system, all the communities in some way are socioeconomically integrated”.⁴ The Board undertook no comparison of the relative degrees of socioeconomic integration of proposed districts before it or of any previously proposed districts. As a result, there is no basis in the Board’s deliberations on the record which allows for meaningful judicial review of this “finding”. Rather, the Board focused entirely on the “compactness” requirement when adopting “Option A” from the proposed redrawn districts:

any time we move off what plan A is, we create a map that is not considered compact. And that is why map A, I believe, trumps the other maps in our consideration.

Notice of Compliance, Exh. C, p.6 Tr. p.14, L8-9.

Justice Carpenetti has recognized that compactness does not “trump” socioeconomic integration.

Alaska's constitution "calls only for relative compactness;" this is because

³Notice of Compliance, Exh. C, p.7 tr. p.20 L8-9.

⁴Id. Tr. p. 20, L13-14. Under this reasoning Valdez, Cordova or Homer could also be considered socioeconomically integrated with Southeast Alaska.

the state's geography and population distribution make it impossible to draw conventionally compact districts that neatly approximate regular shapes like squares and circles. We have frequently allowed some departure from strict compactness in a given district in order to accommodate all of the constitutional criteria for all of the districts in the state.

*In Re 2011 Redistricting Cases.*⁵

Previous redistricting decisions of this Court demonstrate that this elevation of compactness as a “trump” card is incorrect as a matter of law. Historically, the Board or the Court has approved elongated less compact districts as part of the Southeast redistricting process based on an overall combination of constitutional and statutory criteria, including socioeconomic integration. In fact, prior cases suggest that socioeconomic integration factors justify deviations from the “most compact” districts⁶. In ignoring these considerations so as to allow compactness to be a trump card, the Board has failed to properly recognize this precedent.

Article VI, Sec. 6 makes no such distinction between the identified requirements and no such ranking has been noted by the Court in its review of the records of the Constitutional Convention. Haines believes the correct standard is that articulated by former Justice Bryner; “[i]n my view, article VI, section 6, of

⁵44 P.3d 141, 148 (Alaska 2002)(Carpeneti, Justice, dissenting) Citing *Carpenter v. Hammond*, 667 P.2d 1204, 1218 (Alaska 1983).

⁶e.g. *Hickel v. Southeast Conference*, 846 P.2d 38, 52 (Alaska 1993).

the Alaska Constitution gives compactness and socioeconomic integration equivalent stature as redistricting criteria”⁷.

The Court has previously indicated that the “relatively” portion of the phrase “relatively socioeconomically integrated” used in Art. VI, Sec. 6 requires, “that we compare proposed districts to other previously existing and proposed districts, as well as principal alternative districts to determine if socioeconomic links are sufficient. ‘Relatively’ does not mean “minimally,” and it does not weaken the constitutional requirement of integration.”⁸. No such comparison was made by the Board during its May 14 meeting.

The proposed District 31 links small, rural, communities (Haines, Skagway, Gustavus) with the urban area of Juneau. Such mashing together of urban and rural populations was among the factors that led the *Hickel* Court to conclude a proposed Southeast house district failed to meet the constitutional requirement of relative socioeconomic integration. The proposed district mixed rural communities with the urban areas of Ketchikan and Sitka. The Court noted quite logically that “[t]hese rural and urban communities have different social concerns and political

⁷*In re* 2011 Redistricting Cases, 44 P.3d p.147-148.

⁸*Hickel v. Southeast Conference*, 846 P.2d 38, 47 (Alaska 1992).

needs”⁹. Similarly, the Court refused to approve a proposed district which linked rural Mat-Su Borough communities with suburban Fairbanks.¹⁰ Rural and urban Southeast communities are not socioeconomically integrated. This was true in 1992 and remains equally true today. That Haines is physically closer to Juneau than it is to Hoonah does not equate to integration of social and political needs or of economies. As previously noted by this Court, Juneau’s economy is dominated by state government and tourism¹¹ factors not demonstrably present in Haines, which is visited infrequently by cruise ships relative to Juneau, and which has virtually no state employees compared to Juneau. As noted by the trial court in

Hickel:

The city’s economy is dominated by state, city and federal government employment; it is dramatically different from the economy of cities anywhere else in Southeast Alaska or in any other region of the state. Juneau residents share few legislative interests with other residents of Southeast Alaska, especially residents of the small rural communities.

846 P. 2d at 69 (Weeks, J.)

This issue is not limited to Haines. The proposed Southeast Amended

⁹*Id.* 846 P.2d at 51.

¹⁰*Id.* at 53.

¹¹*Kenai Peninsula Borough v. State*, 743 P.2d 1352, 1356, 1360-1361. (Alaska 1987).

Proclamation House Districts result in nearly every single smaller rural community previously linked in a single House District (District 5) being absorbed by either Ketchikan, Juneau or Sitka, the 3 largest Southeast cities. This clearly elevates “compactness” over “relative socioeconomic integration”. The Amended Proclamation House Districts for Southeast bend the arc of historical political representation in the region in a fundamental fashion. The proposal significantly disenfranchises rural communities. Today these rural voices have a common platform from which to voice their unique social and economic concerns in the halls of the Alaska Legislature. Adoption of the proposed Amended districts will mute this perspective to the detriment not just of Southeast residents, but of all Alaska. Some of this melding of cities and smaller towns and villages cannot be avoided. However, it could be minimized by paying less attention to “compactness” and more attention to the historic and current connections between these communities. No evaluation of these two factors was undertaken by the Board. They adopted a rule of “most compact wins” which was a legally inappropriate basis for their decision.

This is an important watershed in Alaska political history. Diluting the voice of rural Southeast communities is a decision that should be reluctantly and cautiously made after a thorough consideration of the relative socioeconomic

connections between Haines and Juneau and Haines and other Southeast communities. The connections between Haines and the more southern rural Southeast communities may extend over a wide range of miles, but they result in communities close in spirit and with many common concerns. The unique manner in which this issue has surfaced in the context of the current litigation has resulted in a dearth of record information on relative socioeconomic integration in Southeast. Accordingly, there was an insufficient analysis of this criteria during the May 14 Board meeting and only conclusory findings adopted by the Board.

Remedy.

Ordinarily, the appropriate remedy would require a remand to the Board for proper and thorough consideration of socioeconomic integration factors in balance with compactness. This is a topic worthy of much more than a hurriedly convened 11th hour meeting of the Board. Given the time constraints identified by the State Division of Elections, this is simply not feasible. To base a change of this magnitude on the fact the State ferry docks throughout the region is, frankly, irresponsible and an insult to the interests of residents of smaller communities most of whom had absolutely no warning that the redistricting plan for Southeast was about to be blown up.

Haines suggests that a more reasoned and rational approach is to proceed

with an interim plan consistent with that previously proposed by the Board while this issue of compactness versus socioeconomic integration is remanded for further consideration by the Board. The Court should reconsider its earlier order and allow the 2012 elections to proceed using the Board's previously submitted interim plan which has already been approved by the Department of Justice. The remaining Southeast redistricting issues would then be resolved, either on remand or in context of the pending petition for review or any subsequent appeals and be implemented during the 2014 election cycle. This is consistent with the approach taken in *Hickel* when approving an interim plan and should be followed here.

Dated this 18th day of May, 2012.

BOYD, CHANDLER &
FALCONER, LLP

BY:



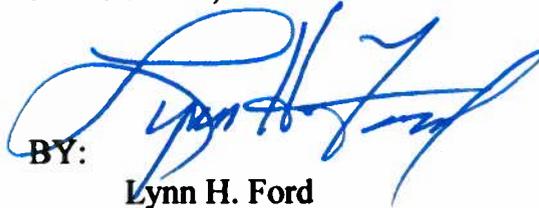
Brooks W. Chandler
Alaska Bar No. 8310109

CERTIFICATE OF TYPEFACE

Pursuant to Alaska Rule of Appellate Procedure 513.5(c)(2), I hereby certify that the foregoing document was prepared in typeface 13 point Times New Roman.

Dated this 18th day of May, 2012.

BOYD, CHANDLER &
FALCONER, LLP

BY: 

Lynn H. Ford
Legal Secretary

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Objections of Haines Borough to Amended Proclamation House Districts and documents relating thereto was served electronically and via first-class U.S. Mail on May 18, 2012, on the following:

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Objections of Haines Borough to Amended
Proclamation House Districts
Page 11 of 12

IN RE 2011 Redistricting Cases
Supreme Court No. S-14721

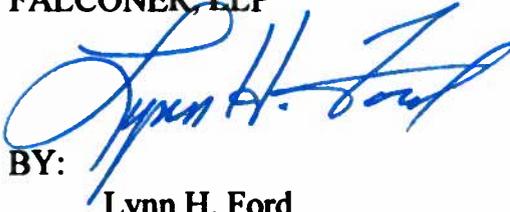
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Dated this 18th day of May, 2012.

BOYD, CHANDLER &
FALCONER, LLP



BY:

Lynn H. Ford
Legal Secretary

HAINES BOROUGH
RESOLUTION No. 11-03-267

Adopted

A Resolution of the Haines Borough Assembly calling on the State of Alaska Redistricting Board to maintain the Haines Borough in a House district that is "a relatively integrated socio-economic area" and not a part of the City and Borough of Juneau.

WHEREAS, the Alaska Constitution calls for twenty Senate members and forty House members from districts drawn based on the 2010 census conforming to the "one person -one vote" standard; and

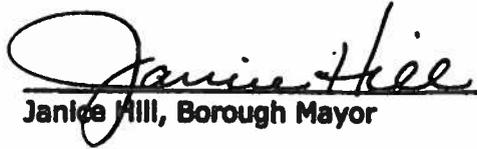
WHEREAS, the 2010 Census is now complete and the legislative districts will be drawn in the next 30 days by the Alaska Redistricting Board; and

WHEREAS, the Haines Borough has historically been a part of a House district that includes other rural communities of similar socio-economic interest; and

WHEREAS, the Capital City of Juneau is the seat of government for all of Alaska and not a community with socio-economic interests in common with the Haines Borough,

NOW, THEREFORE, BE IT RESOLVED that the Haines Borough Assembly does hereby call on the State of Alaska Redistricting Board to maintain the Haines Borough in a House district that is "a relatively integrated socio-economic area" and not a part of the City and Borough of Juneau.

Adopted by a duly-constituted quorum of the Haines Borough Assembly on this 22nd day of March, 2011.


Janice Hill, Borough Mayor

Attest:


Julie Cozzi, MMC, Borough Clerk



HAINES BOROUGH RESOLUTION No. 11-04-268
MUNICIPALITY OF SKAGWAY RESOLUTION No. 11-04R

A Joint Resolution of The Haines Borough Assembly and the Municipality of Skagway Assembly urging the State of Alaska Redistricting Board to adopt a map for Southeast Alaska similar to that proposed by the Alaskans for Equitable Redistricting which maintains Skagway and Haines in a House District that is "a relatively integrated socio economic area" with other similar communities and villages of similar size in southeast Alaska.

WHEREAS, both Haines Borough and Municipality of Skagway Assemblies wish to stay aligned with smaller communities and not be subsumed by a District with a community many times their respective sizes; and

WHEREAS, these communities have similar economic and social structures and rely heavily on a rural/subsistence (versus urban) lifestyle; and

WHEREAS, because of the 2010 population changes, Southeast Alaska from Yakutat to Metlakatla can be formed into four ideal population House seats; and

WHEREAS, District 5, in its present configuration, has 36.6% Alaska Natives - the new District 2 has over 32% Alaska Native keeping the percentage of the Southeast Alaskan Native Minority Influence in a District that continues to protect Native Voting Rights in Southeast Alaska,

NOW THEREFORE BE IT RESOLVED that the Haines Borough Assembly and the Municipality of Skagway Assembly urge the State of Alaska Redistricting Board to adopt a map for Southeast Alaska similar to that proposed by the Alaskans for Equitable Redistricting which maintains Skagway and Haines in a House District that is "a relatively integrated socio economic area" with other similar communities and villages of similar size in Southeast Alaska.

Adopted by a duly-constituted quorum of the Haines Borough Assembly on this 5th day of April, 2011.

ATTEST:


Julie Cozzi, MMC, Borough Clerk




Jerry Lapp, Deputy Mayor

Adopted by a duly-constituted quorum of the Municipality of Skagway Assembly on this 7th day of APRIL, 2011.

ATTEST:


Emily Deach, Municipal Clerk




Thomas D. Cochran, Mayor

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and whether the Board's proposed timeline is sufficient to allow judicial review of the Board's work."² Despite requests from parties to rule on broader issues, this court strictly confines its decision to these two questions.

The parties were invited to brief these issues.³ The *amicus* parties were invited to submit briefs on these issues at the time the movants filed replies.⁴ The court has reviewed all pleadings and rules as follows:

A. Public Hearings. The controlling authority is basic, fundamental, precise, and clear:

Within thirty days after the official reporting of the decennial census of the United States or thirty days after being duly appointed, whichever occurs last, the board shall adopt one or more proposed redistricting plans. **The board shall hold public hearings on the proposed plan, or, if no single proposed plan is agreed on, on all plans proposed by the board.** No later than ninety days after the board has been appointed and the official reporting of the decennial census of the United States, the board shall adopt a final redistricting plan and issue a proclamation of redistricting. The final plan shall set out boundaries of house and senate districts and shall be effective for the election of members of the legislature until after the official reporting of the next decennial census of the United States.⁵

The plan or plans ordered under the *Hickel* process directed by the Supreme Court have not been finalized by the Board and certainly not presented to the public. The Board contends it is not required to hold hearings. It is wrong. Any argument that the hearings held in 2011 on plans that were found to be unconstitutional is inartful at best. At worst it is a sad commentary upon Alaskan life and constitutional principles. The opportunity to be heard is not only part and

² S-14721, 24 April 2013 Order.

³ The Petersburg plaintiffs withdrew in the original litigation after the entry of summary judgment regarding its district; however they were permitted to brief these issues. The Petersburg and Riley plaintiffs both filed motions on 15 May 2013. The Board filed a consolidated opposition on 22 May 2013. The Petersburg plaintiffs filed a reply on 24 May 2013.

⁴ The court did not receive any *amicus* briefs.

⁵ AK Const. Art. 6, Section 10(a).

parcel of our traditional notions of fair play and substantial justice, it is specifically required by the Alaska Constitution.

*Answer to Question 1: Public hearings must be held for a new plan or plans promulgated by the Board.*⁶

B. The Board's Proposed Time Frame. The Riley plaintiffs provided a transcript of the Board's meetings.⁷ The proposed time frame discussed by the Board in that transcript is to have a proposed plan(s) by August, despite arguments in the Board's brief that it has not actually finalized a plan. The Board is mistaken in contending the timing and methodology for promulgating a plan are solely within its administrative providence. The Board promulgated the original plan on its own time frame. This court established a time frame for additional work on remand but rescinded the order, on motion of the Board, to allow it to operate in the sphere of its own executive branch influence. Reposing trust in the Board to comply with court orders was misplaced, as evidenced by the absence of a *Hickel* plan.

The contention that the courts cannot determine what is constitutional is likewise misplaced and has been misplaced since *Marbury v. Madison*.⁸ The courts have consistently overseen government agencies in a variety of situations where governments and agencies acted contrary to the constitutional rights of citizens, including integration of schools and overseeing elections.

⁶ The court notes that the Board has access to, and has used, different forms of technology throughout this process and could hold public hearings through a variety of ways, including video conference, teleconference, Skype, and other technologies designed to promote the widest public input in the shortest amount of time.

⁷ Exhibit 1 to the Riley plaintiffs' motion.

⁸ 5 U.S. 137 (1803).

The U.S. Supreme Court declared on 17 May 1954 that all laws establishing segregated schools were unconstitutional.⁹ Although the Little Rock School Board agreed to implement the decision, Governor Orval Faubus physically prevented the students from entering Little Rock Central High School in 1957. Not surprising, efforts to work out a solution involved the same problem as with redistricting: gerrymandering. Woodrow Wilson, the mayor of Little Rock, asked President Eisenhower to send federal troops to enforce integration and protect the nine students trying to enter the high school.

On 24 September 1957 the President ordered¹⁰ the 101st Airborne Division of the United States Army to Little Rock and federalized the entire 10,000-member Arkansas National Guard. The discrimination cases involved disenfranchising a segment of our population based upon race. Here the failure to adopt a plan consistent with the Alaska Constitution results in depriving the whole state of Alaska of proper representation. The judiciary, not the Board, shall determine the constitutionality of the redistricting process.

While this court declines to set specific deadlines for the Board under the parameters of the 24 April 2013 Order, it agrees with the plaintiffs that the Board's timeline is not sufficient time to promulgate a plan, have hearings, and seek judicial review. There is no reason to delay

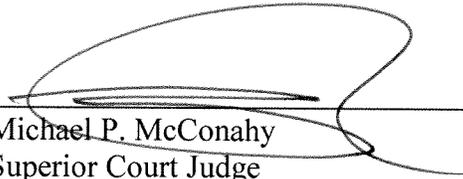
⁹ *Brown v. Board of Educ. of Topeka, Kan.*, 349 U.S. 294 (1955).

¹⁰ President Eisenhower issued Proclamation No. 3204 on 23 September 1957. When that proclamation was not obeyed he issued Executive Order 10730.

this process any further.¹¹ The Board should begin the *Hickel* process immediately and adopt *Hickel* plan expeditiously.¹²

Answer to Question 2: The Board's proposed timeline is not sufficient to allow judicial review of the Board's work.

DATED at Fairbanks, Alaska, this 30 of May, 2013.


Michael P. McConahy
Superior Court Judge

I certify that on 5/30/13
copies of this form were sent to: EMMML
CLERK: AS

4FA CLERK	M. WHEELER
C. BROWN	M. WHITE
J. DOLAN	N. CORR
J. LAVESQUE	N. LANDRETH
J. MCKINNON	SCOTT B.
LC/MPHY	T. KLINKNER
McMAY	T. SHULZ
M. DAVIS	

¹¹ During trial in this case the court was able to learn about the GIS software used by the Board and the parties and watch it in action. The court notes that maps can be drawn, and changed, quickly. The “Kawasaki finger” and areas along South Cushman Street in Fairbanks were subject to such demonstration and testimony at trial. It is unclear why the Board has not already undertaken the process.

¹² The Supreme Court order did not direct or invite a time frame for conducting hearings. Based on the record in the case, including demonstrations at trial of sophisticated mapping programs already loaded with pertinent data, this court recommends the Supreme Court order the Board promulgate *Hickel* plan(s) within 10 days of any appellate decision on the two points contained herein and post those plan(s) on its website. Further this court recommends that the public submit any alternative plan(s) within 10 days thereafter and that public hearings commence on the last day public plan(s) are due. Finally this court recommends the Board be ordered to adopt a *Hickel* plan(s) within 10 days of the commencement of public hearings. This is a 30 day time frame *at this time*, but the Board actually has been working on this process for several years since the Board first received the 2010 Census redistricting data on 15 March 2011. Judicial review, even on an expedited basis, is slow. Past performance suggests it will take considerable time for a plan to be approved by the Supreme Court. Alaskans should not suffer the fate of “Poor Joshua” by not having constitutionally sound voting districts for the next general election.

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MEMORANDUM

TO: Mark Earnest
Borough Manager

FROM: 
Brooks Chandler
Borough Attorney

RE: Dual Employment of Assistant to Haines Borough Manager

DATE: June 13, 2013

On June 10, you requested our opinion regarding the assistant to the Borough Manager taking a partial leave of absence during the months of July, August and September to work for Constantine Metal Resources, Ltd. ("Constantine"). There are two general and related issues on which you would like advice, 1) whether a leave of absence should have been approved, and 2) whether such dual employment is allowable under the Borough code. The analysis of these issues requires consideration of potential ethics issues that may result from this employment pattern. Based on our review of applicable provisions of the code of ordinances we have concluded as follows:

1. Approval of the leave of absence met applicable legal requirements.
2. During the leave of absence from full time Borough employment, it is legally permissible for the assistant to the borough manager to work simultaneously for the Borough and as a field camp manager for Constantine.
3. The employee may be prohibited from acting on matters which directly involve Constantine even after returning to work full time for the Borough in October 2013. The specifics of what matters these would be and the extent to which they would prevent the Borough from making productive use of the services of the assistant to the manager are too speculative to justify prohibiting a Borough employee granted a leave of absence from working for Constantine.

The reasons for these conclusions are set forth in greater detail below.

FACTS

The Borough's staffing chart includes a position described as "assistant to the city manager". The job description for this position indicates job duties include "assisting" the manager in a number of managerial functions such as human resources, personnel policies, administrative procedures, formulation of the Borough CIP, grant and special project administration, preparation of plans and policies (both short term and long term), and preparation of issue papers.

As part of the Borough's effort to reduce operating expenses for FY 2014 the current assistant to the borough manager offered to take a three month seasonal leave of absence during which he would work full time for Constantine and 5-10 hours per week for the Borough. This arrangement has been approved by the Borough Manager. The duties of the position with Constantine will focus on set up and management of a "field camp" for this season's mineral exploration activity. Typically this would include coordination and management of food and housing for persons working "in the field" at a base camp and perhaps expediting some of the tools our equipment needed to conduct exploration activities. It is not anticipated that the field camp requires any Borough permit.

Constantine's web site describes the company as being in the "exploration stage" of development of a project in Alaska known as "the Palmer Property". This site is located within Borough boundaries south of the Haines highway (approx. Mile 35) along Porcupine Creek. If the project is commercially developed Borough facilities may be used to ship ore concentrate to Asia or other markets. The Borough does not have any existing contracts or MOU's with Constantine and does not have permitting jurisdiction over mineral exploration in general but could reasonably be expected to comment or otherwise participate in state and federal permitting processes. It is not anticipated that the Borough will need to submit any comments during the July-September 2013 time frame when the assistant to the borough manager is working for Constantine.

LAW

HBC 2.88.020 governs leaves of absence in excess of ten days in any calendar year. "Such leave shall be granted only when it will not result in undue prejudice to the interest of the borough beyond any benefits to be realized".

HBC 2.76.200(A) states:

No person shall engage in any other employment during the hours the person is scheduled to work for the borough or engage in any employment outside

the hours the person is scheduled to work for the borough when such employment will restrict or limit the person's usefulness to the borough or adversely affect the person's work.

(Emphasis supplied).

HBC 2.06.030 states:

A. A public officer may not use, or attempt to use, an official position in order to gain a benefit, and may not intentionally secure for, or grant to, any person unwarranted benefits, treatment, or advantage.

B. A public officer may not:

1. Seek other employment or contracts through the use or attempted use of the powers of official position;

2. Accept, receive, or solicit compensation for the performance of official duties or responsibilities from a person other than the borough;

3. Use borough time, property, equipment, or other facilities with intent to secure a benefit;

4. Take or withhold official action in order to affect a matter in which the public officer has a personal or financial interest;

5. Attempt to affect a personal or financial interest through coercion of a subordinate; or

6. Restrict, or threaten to restrict, a contractor's eligibility or opportunity to contract with the borough solely in order to secure an unwarranted advantage for the borough or the officer.

(Emphasis Supplied).

"Financial interest" is defined as "any interest, . . . , held by an officer or an immediate family member, including involvement or ownership of an interest in a business, property, or a professional or private relationship, from which the person has received or expects to receive compensation".

HBC 2.06.070(A) states:

A public officer may not represent, advise, or assist another person in any matter pending before the agency that the officer services, if the representation, advice or assistance is:

1. For compensation, unless the representation, advice, assistance, and compensation are required by statute, regulation, or court rule; or
2. Without compensation, but rendered to affect a personal or financial interest of the public officer.

“Public officer” is defined to include any borough employee. HBC 2.06.990.

ANALYSIS

We assume the manager has already decided there is no “undue prejudice to the interest of the borough beyond any benefits to be realized”. The “benefits to be realized” to the Borough from this particular leave of absence are saving money. Any “prejudice” would result from less work being done during the three month period of the leave of absence. This balance of cost savings compared to lost productivity is not a legal issue. We do discuss below whether after returning to Borough employment applicable ethics provisions would limit the tasks which could be performed by the assistant to the manager. We believe ethics considerations are unlikely to reduce the ability of the assistant to perform job duties to an extent that would constitute “undue prejudice”.

The limitations on dual employment set forth in HBC 2.76.200 apply to the current situation. Under this standard, whether the assistant to the manager should be prohibited from working for Constantine depends on whether the work for Constantine would restrict the assistant’s usefulness to the Borough or otherwise “adversely affect” his work for the Borough.

In our opinion the answer is no. Certainly a three month leave of absence in the literal sense “restricts” the usefulness of the absent employee to the Borough. Presumably more of the other duties of the position would be accomplished if he remained a full time Borough employee during these three months (unless other employees such as the Borough Manager work harder or longer to “pick up the slack” resulting from the absence of such a high-level employee).

But we do not believe HBC 2.76.200 should be interpreted this broadly under the circumstances. The balance between saving money and losing productivity is considered under

HBC 2.88.020. Assuming the manager and assembly are satisfied the cost benefits outweigh the loss of overall productivity we do not believe HBC 2.76.200 prohibits dual employment in general during a partial leave of absence.

Instead we feel the “impact” resulting from this type of seasonal leave of absence should be examined with reference to whether having worked for Constantine for the 2013 exploration season will reduce the ability of the assistant to the manager to “do his job” upon his return to the workplace. This requires an analysis of ethics code restrictions. If there was a wide range of work typically done by the assistant which the ethics code would prohibit him from accomplishing due to the assistant’s past employment by Constantine, HBC 2.76.200 would prohibit “moonlighting” for Constantine. On the other hand, if little or no work previously accomplished by the assistant would be precluded by reason of ethics provisions in the borough code, no adverse impact results from employment by Constantine and the prohibition on “moonlighting” under HBC 2.76.200 does not apply.

We believe it is highly unlikely any “Constantine-related” projects the assistant would arguably be precluded from working on under the ethics code would constitute a significant amount of the nine months of work to be performed for the Borough during FY 2014. Any ethics issues could be addressed on a case by case basis.

This conclusion is based on a close examination of relevant provisions of the ethics code and assumptions regarding potential future Borough projects involving Constantine. There are three general categories which potentially could be assigned to the manager’s assistant. One involves public works projects which would assist in improvement of facilities (such as the Port) Constantine would be expected to use should the Palmer Property go into commercial production. It is extremely unlikely any of these projects would be for the exclusive benefit of Constantine. Rather, they would be in the nature of improvements available for use by all Port users of which Constantine would be one significant user. These situations would not result in the assistant to the manager taking “official action” as that phrase is used in the ethics code. At most, the assistant would be providing input to ultimate decisions makers (Borough Manager or Borough Assembly). While past employment to Constantine will raise questions of bias running in either direction on a specific matter this does not rise to the “substantial financial interest” standard requiring recusal in the conflict of interest portion of the Borough code.

A second category would involve permitting matters either before the Assembly or Planning Commission involving use of Constantine property within the Townsite or other area of the Borough subject to planning and zoning authority. The Palmer property is in the General Use zoning district which specifically allows resource extraction as a “use by right”. We are not aware of any Constantine landholdings within the Townsite. It is unlikely zoning issues will arise. Even

if they did, it is unlikely they would require significant involvement by the assistant to the manager.

A third category where the assistant's participation could be limited is dependant on Borough involvement in the state and federal mine permitting process through preparation of comments or raising other issues for consideration by permitting agencies. It would be possible to construct an argument that the assistant's participation in this process is precluded. We do not agree this would be the case. Preparing draft comments is not the equivalent of taking "official action" subject to the prohibition established by HBC 2.06.030(B)(4). Any participation in the process would again subject the assistant to claims of bias but since the assistant does not formally set Borough policy we do not believe a conflict of interest under HBC 2.06.030(B)(4) would exist.

CONCLUSION

The three month leave of absence is not precluded by HBC 2.88.020. Accordingly we believe the seasonal leave of absence could be approved by the Borough Manager. Temporary seasonal employment by Constantine as a field camp manager is extremely unlikely to restrict the "usefulness" of the assistant to the Borough Manager upon his return to employment with the Borough or to adversely effect his work for the Borough. Accordingly we believe the employee is not prohibited from working for Constantine by HBC 2.76.200(A).

If you have any additional questions regarding this issue, please let me know.