

Haines Borough
Borough Assembly Meeting #237
December 11, 2012
MINUTES

Approved

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 Debra **SCHNABEL**, Jerry **LAPP** (via teleconference), Norman **SMITH**, Steve **VICK**, and Dave **BERRY**. **Absent:** Assembly Member Joanne **WATERMAN**.

Staff Present: Mark **EARNEST**/Borough Manager, Julie **COZZI**/Borough Clerk, Jila **STUART**/Chief Fiscal Officer, Michelle **WEBB**/Deputy Clerk, Darsie **CULBECK**/Executive Assistant to the Manager, Gary **LOWE**/Chief Of Police, Carlos **JIMENEZ**/Director Of Public Facilities, Patty **BROWN**/Library Director, and Jerrie **CLARKE**/Museum Director.

Visitors Present: Karen **GARCIA**/CVN, Margaret **FRIEDENAUER**/KHNS, Bill **KURZ**, Kelly **LOWE**, Thom **ELY**, Paul **NELSON**, and others.

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

The following Items were on the published consent agenda:

- 4 - Approve 11/27/12 and 12/4/12 Assembly Meeting Minutes
- 8B - Chilkat Center Activity Report
- 9A - Fire Service Area #1 Board Minutes
- 9B - Parks and Recreation Advisory Committee Minutes
- 11A1 - Adoption of Resolution 12-12-424
- 11A4 - Adoption of Resolution 12-12-427

Motion: **LAPP** moved to "approve the agenda/consent agenda," and it was amended to add Item 11C2 'Southeast Ferries'. The motion, as amended, carried unanimously.

* 4. **APPROVAL OF MINUTES** - November 27, 2012 Regular and
December 4, 2012 Joint Meeting with School Board

5. **PUBLIC COMMENTS** - None

6. **MAYOR'S COMMENTS/REPORT**

Mayor **SCOTT** read a proclamation honoring Representative Thomas and expressing appreciation on behalf of the grateful community.

She was able to attend the eighth grade class's storm drain mapping presentation at the Sheldon Museum. She learned that Public Works Supervisor Bruce Smith taught them how to read blueprints and took them on fieldtrips. Also, Carlos Jimenez visited their classroom to provide information.

She asked AP&T to explain how it decides when to use diesel to generate electricity. The decision to switch to diesel is generally determined by the price of fuel. It is made to reduce the cost to rate payers.

7. **PUBLIC HEARINGS**

A. **Ordinance 12-11-309** - Second Hearing

An Ordinance of the Haines Borough Assembly amending Borough Code Title 8, Section 8.20.010 to remove certified landfill material from the list of items not considered a bear attraction nuisance.

Mayor **SCOTT** opened the public hearing at 6:39pm.

The mayor read a written comment from Burl Sheldon on behalf of Community Waste Solutions. They have no objection to this ordinance.

Hearing no further public comments, the mayor closed the public hearing at 6:40pm.

Motion: **BERRY** moved to "adopt Ordinance 12-11-309," and the motion carried unanimously in a roll call vote. There was no discussion.

B. Ordinance 12-11-310 – First Hearing

An ordinance of the Haines Borough Assembly providing for the addition or amendment of specific line items to the FY13 budget.

Mayor **SCOTT** opened and closed the public hearing at 6:42pm; there were no public comments.

Motion: **BERRY** moved to “advance Ordinance 12-11-310 to a second public hearing on 1/8/13,” and it was amended to add the following:

(13) To accept and appropriate a grant from the State of Alaska Department of Environmental Conservation (DEC) in the amount of \$675,500 for Barnett Water Tank Replacement and to accept and appropriate a loan from the State of Alaska DEC Alaska Drinking Water Loan Fund in the amount of \$289,500 for the same purpose. The total project budget for the Barnett Tank Replacement is \$965,000.				
		Current FY13 Budget	Proposed FY13 Budget	Fund Balance Increase / (Decrease)*
42-90-00-4341	Municipal Matching Grant	\$0	\$675,500	\$675,500
42-90-00-4341	ADWF Loan Proceeds	\$0	\$289,500	\$289,500
42-90-00-7392	Project Expenditures	\$0	\$965,000	(\$965,000)
Revenue over (under) expenditures				\$0

The motion, as amended, carried unanimously.

During the discussion, **SMITH** asked for an explanation of the increase in the sludge composting and screenings, and **STUART** explained it is because of a combination of increased costs and a higher volume. **SCOTT** added the borough has money from the state for a composting shed, and a cost analysis is still being done. **BERRY** asked how many months the borough was not hauling sludge. **EARNEST** said there was about nine months backlog, and there was some that was not invoiced in FY12 that is being paid in this fiscal year. It’s important to look at the total cost of composting sludge to determine if it is really what the borough wants to do. Also, staff is looking at possible alternatives for using the sludge composting funds, all of which involve sewer-related priorities. **SCOTT** said she considers the sludge a resource that can be developed into a compostable product and added to the soil. The Community Waste Solutions (CWS) composting program will work to create a product that can be used for personal gardens. As long as it’s not a wasted resource, she feels good about it. **SCHNABEL** said many of the problems had to do with inefficiencies and disruptions that were not the borough’s fault. The administration should take a strong stand to negotiate for the borough so it is not interpreted that we are willing to deal with whatever is handed to us, such as late invoices. **SMITH** said the borough was paying CWS to dispose of the sludge and they were not doing it appropriately. Now that they are doing it right and turning it into a sellable product, they should pay the borough for the sludge. **EARNEST** clarified the borough does not have a contract with them.

8. STAFF/FACILITY REPORTS

A. Borough Manager – 12/11/12

EARNEST explained the following additional items placed in the assembly folders:

- **Substitute Resolution 12-12-428, FY14 Legislative Priorities.** This incorporates the planning commission comments. He said he would cover this more during agenda item 11A5.
- **Letter to Governor Parnell requesting \$800K for the Port Chilkoot Dock Phase II Project.**
- **Request for Comment – ADOT Project to remove a pipeline over the Chilkat River.** The comment deadline is 12/31/12. If there is no objection from the assembly, he proposed to send a letter of non-objection. Some tests have been done on hazardous contents as part of their permit and they will continue to test during the removal project. He is not certain of the disposal plans. The borough will work with the state to determine if there is any value to the pipe and, if so, the borough might be interested. He will include that in the letter.
- **Support Federal Funding for the Shakwak Project.** The planning commission supports this. The funding was originally for construction of the Haines Highway and for maintenance, as well. A lot of fuel and freight trucking travels through here. The Canadian government has made it clear that their priority is going to be the Klondike Highway, so the US government funding is needed

for the Haines Highway. It may be important to do a resolution in January.

1. Public- or Private-Sector Option?

The manager presented two program options for dealing with impounded and abandoned vehicles, and, the assembly was asked to decide which option would be preferred in the event Ordinance 12-10-308 was adopted.

SCHNABEL said a lot of people contacted her to express opposition to the motor vehicle tax. She had been a proponent, but enough people have said to her that the borough should be enforcing its own code. What's missing is an RFP to pull it all together to make it happen. **SCOTT** said the packet contains a memo from her that the towing service tool has not been provided to our enforcement staff. She would like to see a motion that directs the manager to issue an RFP for towing services to remove the vehicles from the streets. **BERRY** appreciates the work and believes in the private sector. He asked about the \$25 fine in code. **LOWE** explained it is a fine/ticket in addition to any towing costs. **VICK** said the borough did previously have a contract and he's not sure it was a satisfactory one because of exorbitant fees. He asked what happens if there are no feasible private sector proposals. **SCHNABEL** said the borough needs to come up with a "fair" fee. It should be a give and take solution. The borough has to be able to support the fees being charged to get the needed job done. If the borough doesn't get an acceptable price, we can keep working at it until we get what we need. When we are clear that we'll enforce our ordinances, it will enable a contractor to work with the borough in good faith. She remembers years ago when people were towed all the time, and we have to get back there and fix whatever broke down. **SMITH** suggested maybe the borough should add \$25,000 to the Police Department budget to be used for towing. **SCOTT** said there has to be a mechanism for the towing unless they go out and buy their own tow truck.

Motion: **SCHNABEL** moved to "direct the manager to advertise an RFP that will enable the government to enforce its laws," and it was amended to insert a colon (:) followed by the text 1) *towed and impounded vehicles*, 2) *abandoned vehicles*, and 3) *junk vehicles*. The motion, as amended, carried unanimously.

* B. **Chilkat Center** - *Facility Report for November 2012*

9. COMMITTEE/COMMISSION/BOARD REPORTS & MINUTES

* A. **Fire Service Area #1 Board** - *Minutes of 10/26/12 Meeting*

* B. **Parks and Recreation Advisory Committee** - *Minutes of 11/8/12 Meeting*

C. **Assembly Standing Committee Reports**

10. UNFINISHED BUSINESS

A. **Ordinance 12-10-308**

An Ordinance of the Haines Borough Assembly amending Haines Borough Code Title 3 to establish a Vehicle Retirement Program Fund, to levy a motor vehicle registration tax, and to exempt from property taxes all vehicles subject to the registration tax.

This was introduced on 10/23 and the first hearing was 11/6. Following the second hearing on 11/27, the assembly postponed it to this meeting with the following motions on the table. Discussion resumed at the primary amendment level.

Main Motion: "Adopt Ordinance 12-10-308."

Primary Amendment #1: "Include impoundment vehicles in the ordinance by incorporating the amendments proposed in the November 27, 2012 document prepared by the borough manager."

Secondary Amendment: **LAPP** moved to "replace with the substitute ordinance prepared by the borough clerk," and it carried 4-1 with **SMITH** opposed.

The amended primary amendment motion carried 4-1 with **SMITH** opposed.

During the discussion, **BERRY** said he believes it is premature to tax the residents. The request for proposals (RFP) should be tried first. **SCHNABEL** spoke against this because the language encourages an attitude that the public's dollar can be counted on to pay for what a private person should be responsible for. Also, Title 8 already makes it clear that cost recovery is an individual's the responsibility. **EARNEST** said in the case of many abandoned vehicles, there is no way to track down the owner. Sometimes the vehicle identification number is obliterated or there is trouble tracking down and collecting. There are people who behave irresponsibly and the borough is left to deal with and pay for the mess. The process of tracking down the last registered owner can be administratively time-consuming. **LOWE** said he is as frustrated as anyone about the towing situation. The police department does not have the tools to enforce the code. The borough could get the cost recovery,

but the first thing to do is issue an RFP to find a company capable of towing the vehicles. **SCOTT** said common sense tells us there are enforcement costs, and they are not always recovered from the culprit. **VICK** asked if costs outside of cost recovery from the owner still make this ordinance necessary. **EARNEST** said the borough doesn't know what a proposal will consist of, what components will be included, or what the fees will be. There could be a large gap between the proposal and the assembly's determination of a reasonable fee. As an arbitrary, hypothetical example, if someone runs out of gas and is towed, and the fee is \$1,200, is that appropriate or fair?

Motion to Postpone: **VICK** moved to postpone until after the RFP is issued and there has been time to review the proposals," and the motion carried unanimously.

VICK explained this postponement may help to eliminate some of the speculation about what might be needed and answer some of the questions.

11. NEW BUSINESS

A. Resolutions

* 1. Resolution 12-12-424

A Resolution of the Haines Borough assembly authorizing the Borough Manager to enter into a construction contract with Southeast Road Builders for the Barnett Drive Bolted Steel Water Tank project for an amount not-to-exceed \$537,950.00.

The motion adopted by approval of the consent agenda: "adopt Resolution 12-12-424."

2. Resolution 12-12-425

A Resolution of the Haines Borough assembly authorizing the Borough Manager to contract with Pacific Rim Mechanical, LLC in the amount of \$76,356 for Mosquito Lake School fire suppression system repairs.

Motion: **VICK** moved to "adopt Resolution 12-12-425," and it was amended to fill in the blank by inserting that it will be paid for out of the borough's General Fund. The motion, as amended, carried unanimously in a roll call vote.

During the discussion, **EARNEST** noted the last whereas clause contains a blank and the funding needs to be identified. **SCOTT** said an amendment will be needed to fill in that blank. **EARNEST** said the Fire Marshal has given the borough until tomorrow to order the tank. No matter the funding source and even if the funding needs to be determined later, it is imperative the administration be given the authority to move forward on this immediate mandated repair involving a tank, pumps, and other apparatus. There can be follow up conversations regarding funding subsequent to this meeting. He added that there is a larger project not part of this resolution that would add upgrades. This immediate work will serve the shop and deliver some sprinkled water into the school building. **JIMENEZ** added this will sprinkle the furnace room. **VICK** asked if this is major maintenance. [Yes] He asked if the savings the school received from the AP&T overpayment would be available to pay for this, and was informed the savings is in the form of a credit. **SCHNABEL** expressed concern. There is a lot of unfinished business with the school district with regard to major maintenance. It was brought to her attention that the school district has accumulated an \$875,000 capital projects fund balance. That fund was created through years of overage and things like not having to pay for an electric bill. Following the approval of the list of capital projects during the recent joint meeting with the assembly, the School Board proceeded to appropriate \$618,000 of that fund, leaving them with a \$256,000 balance. The items paid for included copier replacements, wrestling mats, cardlock systems, etc. She is concerned that there are unspoken opinions about what is to be paid for. The assembly is trying to determine how to pay for this emergency project. **SCOTT** said the borough cannot legislate how the school district uses their funds. **VICK** said the borough also has a fund balance. He asked if the assembly could ask the school district to split the cost 50-50. **SCOTT** said good practice for a municipality is to maintain four to six months of operating costs in reserve. **SMITH** thanked **SCHNABEL** for bringing this to the assembly's attention. He finds it interesting that fire safety doesn't appear to be a priority for the school district. He asked what the borough's obligation is where major maintenance is concerned. **SCOTT** said the borough has absolute responsibility, although state law allows the borough and school district to come to an agreement to determine parameters. **SMITH** noted in the documentation that a bigger tank is an additional \$20,000, and he believes the assembly would be remiss not to add it. **JIMENEZ** explained the estimate to do the big project, the whole school, is actually \$180,000. **BERRY** reiterated the manager's comments that the funding can be sorted out later. **STUART** said the fund balance is currently at about the six-month target of operating costs. **EARNEST** said this \$75,000 will eat into the fund balance. **LAPP** believes the school district created this emergency and he shares

SCHNABEL's concern.

3. Resolution 12-12-426

A Resolution of the Haines Borough assembly authorizing the Borough Manager to enter into a Memorandum of Understanding with Prophecy Platinum Corp. to establish a framework of mutual cooperation and the exchange of information among the parties regarding the potential development of the Wellgreen Ni, Cu, Au, PGE deposit near Burwash Landing, Yukon Territory.

Motion: **BERRY** moved to "adopt Resolution 12-12-426," and it was amended to remove the paragraph pertaining to binding provisions and change the date to today's date. The motion, as amended, carried unanimously in a roll call vote.

During the discussion, **SMITH** wondered why the people are not here talking to the assembly. **BERRY** said in his line of duty, MOAs and MOUs are standard operating documents, and he has no issue with this. It's just a document that will help both organizations work together. **VICK** agreed. This is nonbinding and will help the entities to have conversations. **SCOTT** noted this is a modification of an earlier draft and has been reviewed by the Haines Port Development Steering Committee. **EARNEST** said they attempted to remove all binding and confidentiality language but one paragraph was inadvertently left in. He also noted Prophecy Platinum has been in Haines and they participated in the Haines Port Development Summit. They have agreed to return. This MOU is part of the process of establishing a working relationship. He speculated this is at least six years out because of permitting, feasibility study, design, financing determinations, etc. It's a long process. **BERRY** called for the question, and it was unanimous. Therefore, discussion ended, and the vote took place.

*** 4. Resolution 12-12-427**

A Resolution of the Haines Borough assembly authorizing the Borough Manager to execute a contract extension and change order with Southeast Road Builders, Inc. for the Lily Lake Water Transmission Project for an amount not to exceed \$14,629.08.

The motion adopted by approval of the consent agenda: "adopt Resolution 12-12-427."

5. Resolution 12-12-428

A Resolution of the Haines Borough assembly adopting the Borough's FY 2014 state legislative priorities.

Motion: **VICK** moved to "adopt Resolution 12-12-428," and it was amended to include the *Shakwak Project* in Section 2 and reposition the *HS/Pool Locker Rooms and Mechanical Systems* and *Mosquito Lake School Sprinkler System* to positions four and five in the Section 1 list. The motion, as amended, carried unanimously in a roll call vote.

During the discussion, **EARNEST** reviewed the list and said the only other change is the addition of the *Shakwak Project* in Section 2. The planning commission endorsed the way the substitute resolution appears. **SCHNABEL** moved to include the *Shakwak Project* in Section 2, and the motion carried unanimously. **SMITH** moved to include the Alaska Class Ferry to Section 2. Mayor **SCOTT** spoke against it, because it is not presently known what the situation is, and she's not sure it's the most effective thing to do at this time. The motion failed 2-3 with **SCHNABEL, BERRY, LAPP** opposed. **VICK** asked for an explanation of why the planning commission moved the *Lutak/Oceanview Area Slump Mitigation & Drainage Improvements* down the list. **EARNEST** explained it was more the prioritization of the first two tiers not so much specifically moving that project down. The feeling was these other projects rose above that particular one. **SCHNABEL** moved to reposition the *HS/Pool Locker Rooms and Mechanical Systems* and *Mosquito Lake School Sprinkler System* to positions four and five in the Section 1 list. Although she is excited and energized about the challenge of a new Public Safety Building, to have it as high as it is implies the borough knows where it's going with it. **VICK** moved to divide the question but that failed 3-2 with **BERRY** and **SCHNABEL** opposed. **SMITH** observed the absence of item costs. **EARNEST** said the resolution itself has never carried dollar amounts. It's important not to lock into a specific number and the titles should be kept as generic as possible. The task before the assembly is to prioritize a list. There will still be some additional refinement when it's entered into CAPSIS. **SMITH** moved to amend to make *Mosquito Lake School Sprinkler System* position number 1 rather than number 5, and it failed for lack of a second. The amendment motion carried 4-1 with **SMITH** opposed.

B. Ordinances for Introduction - None

C. Other New Business

1. Board Appointments

(Re)appointment requests were received for various seats on the Parks and Recreation Advisory Committee, Fire Service Area #1 Board, Fire Service Area #3 Board, Letnikof Estates RMSA Board, Planning Commission, and Museum Board of Trustees. After review and consideration of the board recommendations, the mayor sought assembly confirmation of the appointments.

Mayor **SCOTT** explained additions to her appointment document: Jim Heaton to Museum Board and Robert Venables and Lee Heinmiller to the Planning Commission.

Motion: **BERRY** moved to "confirm the mayor's (re)appointments as listed on the 12/11/12 Mayoral Appointment document and including the additional appointments." The motion carried unanimously.

2. Southeast Ferries (added during approval of the agenda)

The mayor explained the current efforts to acquire information regarding the Governor's recent decision to cancel the Alaska Class Ferry. **SMITH** believes a resolution should be drafted opposing the Governor's decision. **VICK** said he doesn't know the next step, because there is a lot of information to be gathered. **SCHNABEL** suggested perhaps a blog for people to post information. Mayor **SCOTT** said this is not just about Haines; it's about Southeast Alaska. There are many communities impacted by this decision. Skagway Mayor Stan Selmer has suggested that Haines and Skagway meet together in a workshop and adopt a joint resolution. It would be an excellent way to learn more about it and become more articulate. She said the Alaska Class Ferry was part of the plan to replace the aging ferries. **EARNEST** said tens of millions of dollars has been appropriated for the Alaska Class Ferry, so this change would undoubtedly require legislative action. **SCOTT** is targeting possibly the second meeting in January for a resolution. **VICK** said he would prefer information coming to the assembly via email and packets as opposed to trying to filter through comments on a blog or forum. **SCOTT** said she will work with **CULBECK** to put together information on this important issue as it becomes available.

12. CORRESPONDENCE/REQUESTS - None

13. SET MEETING DATES

- A. Government Affairs & Services Committee** – Tuesday, 12/18, 5:30pm - Purpose: meet with the Parks and Recreation Advisory Committee regarding their request to change the composition of that Committee. Location: Public Library.
- B. Assembly Joint Work Session with the School Board and Representative-Elect Jonathan Kreiss-Tomkins followed by a public reception** – Wednesday, 12/19, 5:00pm – Location: Chilkat Center Lobby.
- C. Finance Committee** – Tuesday, 1/8/13, 5:30pm – Purpose: FY13 Budget Amendment Ordinance.

14. PUBLIC COMMENTS

ELY said public input on mining issues is important, and he would like to be ahead of the curve on these development issues. He believes the Haines Port Development Steering Committee is not only a port development committee but a "pro-development" committee. Other opinions need to be considered.

CLARKE informed the assembly of an upcoming "people of Haines" exhibit at the Museum scheduled for February and March. More information will be forthcoming in a postal customer mailing.

15. ANNOUNCEMENTS/ASSEMBLY COMMENTS

SCHNABEL asked if the heliskiing investigations will be on an assembly agenda, at some point. Mayor **SCOTT** explained the family asked the assembly to deny any permit renewal but that is not the assembly's prerogative. The family has filed a complaint with the Alaska State Troopers regarding the investigation that was conducted. They allege there were violations of the borough permit. The complaint is not to the borough. It does reference the borough's permit and what may or may not be a part of that. **SCHNABEL** suggested staff consider bringing this to the assembly if it would be helpful, and **EARNEST** said he will keep that in mind.

16. ADJOURNMENT – 9:23pm

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

ATTEST:


Julie Cozzi, MMC, Borough Clerk




Stephanie Scott, Mayor