

**HAINES BOROUGH PLANNING COMMISSION
REGULAR MEETING MINUTES
AUGUST 26, 2004**

1. **CALL TO ORDER:** 6:00pm by vice-chair **STANFORD**.
2. **PLEDGE TO FLAG:**
3. **ROLL CALL:**

The Mayor suggested that this time might be good to swear in new Commissioner Scott **ROSSMAN**. All agreed, so **ROSSMAN** was sworn in.

Present: Harriet **BROUILLETTE**, Rob **GOLDBERG**, Lee **HEINMILLER**, Bill **STACY**, Jim **STANFORD**, Herb **VANCLEVE**

Absent: **NONE**

Staff Present: Administrative Assistant Scott **HANSEN**

Visitors: Llewellyn **COBB**, Lynn and John **NOWAK**, Thom **ELY**, Mayor Mike **CASE**, Felicia **HANSEN**, Victoria **HANSEN**

4. APPROVAL OF AGENDA

M/S STACY/BROUILLETTE to approve the consent agenda, with an addition of "elections" between items 5 and 6.

Motion carried unanimously as amended.

5. APPROVAL OF MINUTES - July 15, 2004

M/S STACY/GOLDBERG to approve the July 15, 2004 minutes.

Motion carried unanimously.

Vice chair election: **GOLDBERG** noted that Commission representation at Assembly meetings would be highly productive.

M/S GOLDBERG/STACY that **STANFORD** be chairman, and **HEINMILLER** be vice-chair.

Motion carried unanimously.

6. PRESIDING OFFICER REPORT: NONE

7. PUBLIC HEARINGS:

a) Appeals - MEACOCK "After-the-fact" fee

HANSEN reported that a certified letter was sent to the **MEACOCKS** in anticipation of their written response. Their two previous responses were directed against staff conduct but were countered by a performance compliment from the Manager. No further written communication has been received by the Borough on this matter. **GOLDBERG** said that if no appeal has been made in the approved time period, including extensions, the appeal period can now be considered closed. **HANSEN** said that the standard administrative process will be used to complete the permit process, which involves finalizing the site plan and collecting necessary "after-the-fact" fees for the **MEACOCK'S** development. The development appears to be well within the acceptable land uses and layouts, so approval should come quickly once they submit the necessary fees to complete the application.

8. STAFF REPORT:

a. Land Use Permits

- i.** Ken Seright - short plat - Seright Subdivision II - MB RR
- ii.** Art Woodard - SFR - TSA RR
- iii.** Matt Boron - deck addition - TSA RR
- iv.** HARK - animal shelter - RMU
- v.** Joan Pitman - SFR site prep - RR
- vi.** SEARHC - drainage - C

b. Enforcement - Bill Hagen - roadbuilding/timber harvest without permit

9. COMMUNICATION:

Mary and Robert **MUSSEMAN** requested a rezoning in Tanani Bay subdivision. **HANSEN** explained the process for rezoning to the Commission and said that the residents will be notified of the need to complete a proper permit for that issue to be handled.

10. OLD BUSINESS

a. Home Rule Borough Alaska Coastal Management Program (ACMP) participation

HANSEN explained the relationship between state and local districts and the benefits of coastal management to the Borough ("seat at the regulation table" during project reviews, funding, valuable planning documents, and others). After consolidation the home-rule Haines Borough received a double annual funding allotment than the former City received. Since the state has reorganized departments handling the ACMP there have been

regulations changes. These state-level changes require local district plans to be updated. Thankfully \$25,000.00 has been promised to the Haines Borough to complete this task. As per the state's requirements the Assembly recently passed a resolution supporting the continued participation, and a motion of support is also needed from the Planning Commission. Additionally, the state wants to know the Borough's intent regarding expanding HCMP boundaries boroughwide.

M/S GOLDBERG/HEINMILLER that the Haines Borough continue participating at current levels in the Alaska Coastal Management Program.

Motion carried unanimously.

M/S GOLDBERG/STACY to recommend to the Assembly that the Haines Coastal Management Plan boundaries be expanded to include the entire Borough.

Motion carried unanimously.

11. NEW BUSINESS

a. HEINMILLER Significant Structures Area (SSA) zone permit request

HEINMILLER described his project as enlarging a boiler room to give more room than 20 square feet to service the boiler. He stated that the structure in which the boiler room needs enlargement was not a historical structure (though the style was similar), and he intends to make the overall look match the existing historical buildings.

M/S STANFORD/STACY to approve the land use permit.

Motion carried.

12. PUBLIC COMMENT:

ELY suggested that the helicopter Special Use Designation (SUD) language crafted by the state, and then dropped, should be taken up by the Borough. Since the season is in the winter regulations should be handled immediately to be able to implement by year's end. The public approved managed heliskiing, but no regulation has been created managing the industry. **CASE** agreed, suggesting that the Commission recommend to the Assembly which portions of the heliskiing industry should

be covered by the Tourism Permit application process. He suggested "use-by-right" zones, as previously submitted to the Assembly, but in a single motion, and possibly including other areas - the upper Tsirku definitely needs to be on the list to accommodate existing uses. **GOLDBERG** wondered if the state would honor Borough land use regulations. **CASE** noted that the state Department of Community and Economic Development (DCED) was the driving force behind dropping the SUD because it was determined to hamper economic development on state land. DCED may prevent the implementation of land use laws on state-managed land. Noting that the Commission already discussed the issue and submitted recommendations in the last couple months, **HEINMILLER** suggested that the Commission adopt the regulations to force a discussion with the state as to whether they'd honor the Borough's regulations on land they manage. **ELY** said that Skagway successfully regulated helicopter use within their jurisdiction. **HEINMILLER** noted that if the Haines Borough could regulate helicopter use we'd avoid a ballooning industry and its associated problems and costs, unlike other municipalities.

M/S STANFORD/GOLDBERG by next meeting obtain a copy of Skagway's ordinance and communication from the state regarding helicopters.

Motion carried unanimously.

M/S STANFORD/GOLDBERG to ask the Mayor to write a letter to the state to clarify the Haines Borough's zoning authority.

ROSSMAN asked about the state's intent while dropping the SUD language. **CASE** read a portion of the 5/17/04 letter from DNR Commissioner Irwin stating that the SUD language was overly restrictive to the economy.

Motion carried unanimously.

13. TITLE 18 REVISIONS

a. Rezoning Appeal Process

STANFORD noted the Borough lawyers' agreement that the charter process for appealing a rezoning is illegal. The lawyers recommended omitting that portion of the charter. **GOLDBERG** said that the rationale for the lawyers' decision was 1) a small group can't dictate zoning decisions, and 2) "landowners" vs. "voters" making zoning decisions. **STANFORD** asked if the Borough dares to zone with this in mind. **GOLDBERG** wondered what

would happen if the public could possibly reject the change. **CASE** said that he's working with the lawyers to add a "severability" clause to be able to make only the rezoning portion invalid without calling the whole charter into question. The charter can only be amended by a vote of the people, and it's too late to include this issue on the upcoming ballot. Either a special election, costing about \$6,000.00, will be needed, or the issue could be added to the regular election in 2005. **STANFORD** said that since the lawyers reviewed the charter prior to consolidation and then later identified this portion as being illegal he hoped the lawyers would do it for free. **STACY** suggested that the charter language at this point may still be able to be handled without a Commission motion and recommended that the Commission allow the Mayor to continue communicating with the lawyers to resolve the charter language problem. **VANCLEVE** agreed, saying that the issue should be fast-tracked - a special election would be cheaper than a lawsuit. **STANFORD** said that, unlike the lawyer decision of 12-19 where an initiative cannot be reasonably used for a rezoning request, the most recent lawyer decision states that the initiative process can be used to rezone portions of the Borough.

b. "Mobile Home" definition

CASE noted that weaknesses in the code seem to classify what looks like a mobile home as "modular home," and residents in Skyline Estates (in the Single Residential zone) have objected to development approved by the Manager on June 28. Certain residents are claiming that the home identified by code as a "modular home" is actually a "mobile home." **HANSEN** noted that since the Manager interpreted the code this way the appeal process is the lawful way to protest that specific decision. **HEINMILLER** noted that, prior to consolidation, the Commission recommended that construction quality be a factor, and changes to land use code should reflect that. Apparently those considerations weren't implemented when changes to land use codewere made at consolidation.

VANCLEVE noted that code language must be objective and specific to be enforceable. **GOLDBERG** noted restrictive covenants apart from zoning, enforced by the residents, in Letnikof Cove subdivision. He suggested that homeowners might create deed covenants for themselves. **HEINMILLER** agreed.

NOWAK noted that "modular," by definition, should be more than one piece, and two-piece modular homes should be acceptable on Skyline Estates. The "single wide" has the same look as a

mobile home. **HANSEN** noted that a significant number of landowners in Skyline had signed a rezoning petition, but that petition has yet to be turned into a rezoning permit. What is happening now is that Skyline Estates landowners are attempting to change code for the whole TSA. He suggested that rezoning in the Skyline area to a stricter form would cleanly accomplish what the residents are indicating. Rezoning could accommodate specific desires not necessarily called for by all residents in the Single Residential zone. The petition needs to be added to a permit to rezone, and the public process can begin.

STACY and **HANSEN** suggested changes to tighten up the definition of "mobile home."

M/S STACY/HEINMILLER to submit and consider proposed changes to the mobile home definition at the next meeting.

Motion carried unanimously.

14. NEXT MEETING DATE

- a. Regular meeting - Thursday, September 9, 2004, 6:00 pm in the Assembly Chambers

STANFORD noted that he's expecting to miss that meeting, so **HEINMILLER** will manage the meeting.

15. ADJOURNMENT

M/S STACY/ROSSMAN to adjourn.

Motion carried.

The meeting adjourned at 7:15 pm.

Respectfully submitted:

Scott **HANSEN**, Haines Borough Administrative Assistant