

**HAINES BOROUGH PLANNING COMMISSION  
REGULAR MEETING MINUTES  
NOVEMBER 18, 2004**

- 12. **CALL TO ORDER:** 6:00pm by chair **STANFORD**.
- 13. **PLEDGE TO FLAG:**
- 14. **ROLL CALL:**

Present: Jim **STANFORD**, Harriet **BROUILLLETTE**, Rob **GOLDBERG**, Lee **HEINMILLER**, bob **CAMERON**, Lynda **WALKER**, Bill **STACY**, Herb **VANCLEVE**  
(Assembly liaison)

Absent: **NONE**

Staff Present: Administrative Assistant Scott **HANSEN**

Visitors: Stephanie **SCOTT** (Borough Assembly), Harvey **RISLEY**, James **SAGE**, Sarah **SWINTON**, Rob **POLLOCK**

**15. APPROVAL OF AGENDA**

The following agenda changes were proposed:

- 11c. chair election
- 13a. Modular homes in SR zone

**M/S STACY/GOLDBERG** to approve the agenda with the above amendments.

Motion carried unanimously as amended.

**16. APPROVAL OF MINUTES - October 14, 2004**

**M/S GOLDBERG/HEINMILLER** to approve the above minutes.

Motion carried unanimously.

**17. PRESIDING OFFICER REPORT:**

- a. **Welcome New Commissioners - Lynda WALKER and Bob CAMERON**
- b. **Open Meetings Act (OMA) Discussion**

**STANFORD** said that as Assembly and Commission are working toward better communication this issue has arisen, and it's good to understand what communication is appropriate. He noted that communication had been received from Stephanie **SCOTT** regarding Assembly/PC communication over the pending ACMP contract. He began discussion by noting that a "meeting" is defined as when

more than four Commissioners have a discussion. **SCOTT** said that the PC is a decision-making body in some areas and an advisory body in others. **HEINMILLER** noted that commissioners exist as commissioners and can make decision, only when together in a meeting. **VANCLEVE** noted that "ex-parte communication" is another matter, applying only to quasi-judicial situations (such as appeals). In such cases commissioners are not allowed to discuss the issue with anyone. **STANFORD** noted that "serial communications", such as polls or e-mails of commissioners to come up with a probable vote, are violations of the OMA. E-mails with "reply to all" selected move into that area. **VANCLEVE** noted that although litigation may not go too far against commissioners communicating through e-mails in this fashion, at a recent Alaska Municipal League conference it was declared that such e-mail communication is a poor communication policy. **HEINMILLER** noted that the issue is not what people ask commissioners but if and how they respond, and that's why the Commission declared in prior meetings that all communication to the Commission pass through a central point: staff. Besides, not everyone has e-mail. **WALKER** said that communication in local issues is complex enough without the appearance of impropriety. **VANCLEVE** noted that the "recall" of elected officials is the top penalty on the list of violations of the OMA, and it's easy to recall an elected official. **GOLDBERG** noted that the Assembly liaison is a great asset to communication. **HANSEN** noted that the Manager is directed by code to either participate in Planning Commission business or officially appoint a designee. He noted that administration staff is looking forward to having a Manager for other reasons as well.

**18. PUBLIC HEARINGS:**

**a. NOWAK Appeal of NELSON land use permit approval**

**STANFORD** asked the audience to comment on the issue. **SAGE** said that he'd been in Whitehorse to see the Millennium Homes facility and took pictures of a 14X60 single-wide structure. The pictures were in the packets. Pictures showed permanent undercarriage mounts for wheels and suspension and a hitch on the front. He asked that the Commission revoke **NELSON's** permit because **NELSON's** structure is a mobile home. He also said that residents of Skyline Estates indicated that they would "pursue the matter" if there was an improper decision made by the Commission. **HANSEN** asked if **SAGE** was certain that it was **NELSON's** single-wide. **SAGE** said the structure was typical but didn't know if it was actually the **NELSONS'** single-wide. **WALKER** said that if the decision by the Manager was based on incorrect

information the whole permit is wrong. **CAMERON** said that "mobile home" definition needs to be very distinct. **STANFORD** said that the permit is erroneous.

**M/S GOLDBERG/STANFORD** that the Commission declare the permit approval by the Manager an error and revoke the permit.

**HANSEN** explained rationale behind the existing permit approval. As is necessary for all land use permits, explicit details were obtained from the **NELSONS** as to the nature of their proposed development. At **NELSON'S** application time code language defining mobile homes, prohibited outside mobile home parks, had very specific undercarriage information. That information was used to differentiate it from a modular home and ensure that code wasn't being violated. With **NELSON** at the desk **HANSEN** called the salesman in Whitehorse with specific questions about the undercarriage. The salesman said that the **NELSON'S** undercarriage had no permanent undercarriage: the structure was neither designed with nor had a suspension for wheels. **HANSEN** asked details about transportation, since no wheels existed on the structure, and the manufacturer described the process: an independent moving company chains the bare frame to a set of wheels, drives the structure to its location, jacks it up, removes the wheels, and maneuvers the structure onto a foundation. Then the wheels are loaded back onto the tractor rig, and the tractor is driven back to its private moving company location. **HANSEN** said that since there are several specific conditions to be satisfied to define the structure as a mobile home, and the Manager determined that those requirements weren't satisfied. The structure was not defined as a mobile home based on the code at that time. Since the code didn't define it as a mobile home the structure was permitted. Zoning allows even a tarpaper shack in Skyline Estates. Even though the structure looks like a mobile home staff cannot prohibit a use allowed by the code. Zoning allowed the **NELSON'S** structure at the time.

**HEINMILLER** said that the "look" makes it more like a mobile home than anything and would probably not be allowed if the overall intent of the code had been followed. However, the permanent wheel situation is a necessary element. **WALKER** said the permit should be revoked. **STACY** asked again how the structure was a violation of code at the time - **STANFORD** said that this is a gray area, but it looks like a mobile home. **STACY** said that he agreed that it looks like a mobile home, but the code violation doesn't show. The Manager considered it legal. **CAMERON** said he wasn't ready to vote - he suggested that the commission determine whether or not the **NELSONS** were going to actually

place the unit. He also suggested that the actual unit be investigated so the commission could know more facts before making a decision. **SWINTON** said that the **NELSONs** turned down an offer from local residents to purchase the property and would probably sit on the issue for a couple years to see what happened. **STACY** suggested postponing the issue.

Motion passed on a roll call vote, with **CAMERON** opposed.

**HANSEN** asked for a clarification as to how to describe the violation - **STANFORD** said that the structure should've been interpreted as a "mobile home" by code and not a modular home.

**19. STAFF REPORT:**

**a. Land Use Permits:**

- i) Carol **KELLY** - deck- Skyline Estates - SR
- ii) Randy **GILBERT** - SFR- Townsite - SR
- iii) Fred **GRAY** - shed- Chilkat Trails Rd. - SR
- iv) Lucy **HARRELL** - recycling shed- Small Tracts Rd. - RMU
- v) Don **TURNER, Jr.** - fill, replace deck- Helms Loop - SR
- vi) Keith **BETTRIDGE** - COU - home occupation - Piedad Rd. - RR

**b. Enforcement: NONE**

**c. Comprehensive Plan Comment Period**

**HANSEN** said that the Comp Plan comment period was posted in the third week of October, and the comment period closes November 30. **SCOTT** said she'd not heard of it until she saw the posting - she'd hoped the Assembly would be told.

**M/S GOLDBERG/STACY** to extend the comment period to December 31 and advertise the Comprehensive Plan comment period in the radio and newspaper.

Motion passed unanimously.

**20. COMMUNICATION: NONE**

**21. OLD BUSINESS**

**a. Elks Lodge Conditional Use Permit Follow-up**

**HANSEN** explained the issue and indicated that the November 14, 2001, approval letter to the Elks contains three outstanding issues to be investigated for compliance:

- Utility connection required by Water/Sewer Plant Operator in 2001
- Buffer on Main Street side

- Access from 6<sup>th</sup> Ave not constructed

**RISLEY** said that the Elks lodge hasn't complied with these issues. 6<sup>th</sup> Avenue is not constructed well, and when it is constructed the grades may be different. Main Street access is how everybody gets there now, and there's no problem. Buffering on the Main Street side would hinder snowplowing Fire Department access. There is no sewer hookup - they connected to an existing line, and there is no reason to make another connection - the existing line is sufficient.

**HEINMILLER** said that the Main Street entrance is not a difficult situation, and the Sixth Avenue option involved the potential for more impacts to school children. **WALKER** said that fire department access should not be compromised by a buffer.

**M/S STACY/HEINMILLER** to re-approve the Elks Lodge CU permit.

**M/S STANFORD/GOLDBERG** to amend the motion to not require the buffer and 6<sup>th</sup> Avenue access as originally required.

Amendment passed unanimously.

Motion passed unanimously.

**RISLEY** said that the requirement to install a second utility line was unreasonable. He brought forward "unit" numbers showing the sewer demand for various plumbing fixtures and suggested that the prior requirement for a second line is a costly, unnecessary requirement.

## 12. NEW BUSINESS:

### 1. ACMP Plan Amendment Consultant Recommendation to Assembly

**STANFORD** said that the consultant should do the work - there shouldn't be a tug-of-war between the Commission and the Assembly over this issue like the Comprehensive Plan. **GOLDBERG** said that in the Comprehensive Plan project the consultant got caught in the middle. This time **SHEINBERG** stands out from the others because of their extensive experience with Haines, the HCMP, and the quality of former work, such as the Waterfront Public Use and Access Plan. Also, her preparation was reflected in the plan of action. **HEINMILLER** and **STACY** agreed.

**M/S GOLDBERG/WALKER** to recommend to the Assembly that **SHEINBERG** and Associates be awarded the HCMP Plan Amendment contract.

Motion passed unanimously.

**M/S STANFORD/WALKER** to encourage the Assembly to be part of joint progress and public hearing meetings as the contract proceeds.

Motion passed unanimously.

#### **m. Borough Land Sales**

**STANFORD** said that the Commission has written direction from the Assembly to investigate potential Borough land possible for sale. **HEINMILLER** noted that prior Borough land sales have been in the face of opposite Planning Commission recommendations and Comprehensive Plans. He noted that soon after Juneau began selling land in the 90s the land manager at the time began moving in that direction, and before long the Assembly was moving in that direction. He recommended that public hearings be held regarding land classification so the public is not left out of the process. He cited the Comprehensive Plan's stating that land sales not be used to solve economic crises. He said that Borough land is limited, the Borough eliminates private landholders from being able to sell land at a profit, and the permanent fund isn't making a reasonable increase to justify adding to it. He recommended against land sales at this time. **GOLDBERG** agreed. He said that in the last 20 years his property values have increase tenfold. Putting properties on the tax rolls gains anywhere from 0.06% to just over 1% revenue each year - a bad investment. **WALKER** said that selling borough property at this time would be selling our inheritance, but the Manager is not asking for a mass sale of property - there needs to be an accounting for what can be sold at a good profit. **VANCLEVE** agreed, saying that the assembly needs to find out which areas are good for land sales and which are valued in other ways.

**M/S BROUILLLETTE/GOLDBERG** that the Assembly consider for sale all properties not previously sold and those gained through foreclosure, but only properties previously offered for sale.

Motion passed, **WALKER** opposed.

**M/S GOLDBERG/STANFORD** that the Assembly be presented a letter of summary composed by a Commissioner summarizing the Commission's land sales discussion.

**GOLDBERG** was volunteered. **WALKER** said that any communication should be representative of the Commission as a body. **GOLDBERG**

said that the summary can be unbiased. **STACY** thought that perhaps large repossessed lots should be kept rather than being sold. **SCOTT** interjected that the purpose for the study is to gain money to pay for services. She recommended that Commission identify moneymaking property based on an expectation and plan of how the community should grow. She recommended that the economics of all sales be known prior to any sales. The Assembly wants a good decision, not just a fast one. **GOLDBERG** suggested getting physical attributes to be able to ascertain that the properties are valuable for subdivision. **WALKER** suggested recommending proposed land sales for the long term.

Motion passed, **WALKER** opposed.

**M/S STANFORD/WALKER** to direct staff to provide details of possible Borough lands for sale by the December 9 Commission meeting.

**GOLDBERG** clarified the criteria for listing out potential land sales:

- i) lands previously advertised for sale but not sold
- ii) lands repossessed by the Borough
- iii) existing borough lands needing info:
  - (1) physical attributes
  - (2) zoning
  - (3) size
  - (4) general location

All agreed.

Motion passed unanimously.

**SCOTT** expressed concern over the difficulty of motions/action moving from the Commission to the Assembly. **STANFORD** agreed, saying that motions aren't always communicated effectively, and the Commission has been requesting everything by motion lately because of this. **SCOTT** said that there should be an immediate communication link after every meeting, and this hasn't happened consistently. **HANSEN** said that staff is a natural channel for this, and the Manager is given that responsibility by code. Current staff has taken the basic task in hand and kept the whole thing from falling through in the absence of a Manager, with the expectation that he will bear the responsibility when he is hired. **VANCLEVE** expressed his willingness to assist communication in his capacity as Assembly liaison.

#### **n. Chair Election**

**M/S WALKER/GOLDBERG** to nominate Jim **STANFORD** as chairman of the Planning Commission.

Motion carried unanimously.

**M/S STANFORD/GOLDBERG** to nominate Lee **HEINMILLER** as vice-chairman of the Planning Commission.

Motion carried unanimously.

**12. PUBLIC COMMENT: NONE**

**13. TITLE 18 REVISIONS:**

**a. Modular Homes in SR Zone**

**GOLDBERG** noted the time and suggested moving this item to the next meeting.

**14. NEXT MEETING DATE**

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

**15. ADJOURNMENT**

**M/S HEINMILLER/STACY** to adjourn.

Motion carried.

The meeting adjourned at 8:56 pm.

Respectfully submitted:

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Scott **HANSEN**, Haines Borough Administrative Assistant