

KENAI PENINSULA BOROUGH




Assembly Packet

January 17, 2012

7:00 PM

**Assembly Chambers
George A. Navarre Administration Building
144 North Binkley Street
Soldotna**



January 2012

Monthly Planner

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday																																																																																																		
1	2 Borough Holiday: New Years (observed)	3 7:00 PM Anchor Point APC 7:00 PM Assembly Meeting	4 6:00 PM Cooper Landing APC 7:00 PM Moose Pass APC	5 7:00 PM Hope/Sunrise APC	6	7																																																																																																		
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APC = Advisory Planning Commission; FSA = Fire Service Area; SA = Service Area; MAG = Mayor's Advisory Group

February 2012

Monthly Planner

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January 2012 - December 2012

Assembly Yearly Planner

Jan 2012						
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JANUARY

- 2 Borough Holiday: New Years (Observed)
- 3 Assembly Meeting
- 6 3/03-3/07 NACo Legislative Conf. (DC)
- 16 Borough Holiday: MLK
- 17 Assembly Meeting

FEBRUARY

- 7 2/07-2/09 AML Legislative Conf. (Juneau)
- 14 Assembly Meeting
- 20 Borough Holiday: Presidents Day
- 28 Assembly Meeting

MARCH

- 13 Assembly Meeting
- 3 Assembly Meeting
- 17 Assembly Meeting (Seward)

MAY

- 1 Assembly Meeting
- 15 Assembly Meeting
- 28 Borough Holiday: Memorial Day

JUNE

- 5 Assembly Meeting
- 19 Assembly Meeting
- 3 Assembly Meeting
- 4 Borough Holiday: Independence Day

JULY

- 13 7/13-7/17 NACo Annual Conf. (New Mexico)

AUGUST

- 7 Assembly Meeting
- 21 Assembly Meeting
- 28 Primary Election

SEPTEMBER

- 3 Borough Holiday: Labor Day
- 4 Assembly Meeting
- 18 Assembly Meeting (Homer)

OCTOBER

- 2 Borough Election
- 9 Assembly Meeting
- 23 Assembly Meeting

NOVEMBER

- 6 General Election
- 12 11/12-11/16 AML Annual Conf. (Anchorage)
- Borough Holiday: Veterans Day

- 20 Assembly Meeting
- 22 Borough Holiday: Thanksgiving
- 23 Borough Holiday: Thanksgiving

DECEMBER

- 4 Assembly Meeting
- 24 Borough Holiday: Christmas Eve
- 25 Borough Holiday: Christmas

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Assembly Meeting Schedule

TUESDAY, JANUARY 17, 2012

- 3:45 PM Finance Committee**
- 4:15 PM Policies and Procedures Committee**
- 4:45 PM Legislative Committee**
- 7:00 PM Regular Assembly Meeting**

Above listed meetings will be held in:

Assembly Chambers
George A. Navarre Kenai Peninsula Borough Administration Building
144 North Binkley Street, Soldotna, Alaska

January 17, 2012

3:45 PM

Assembly Chambers
George A. Navarre Kenai Peninsula
Borough Administration Building, Soldotna

Bill Smith, Chair

Ray Tauriainen, Vice Chair

All Assembly Members

AGENDA

M. PUBLIC HEARINGS ON ORDINANCES

- 1. Ordinance 2011-19-25: Accepting and Appropriating Cruise Ship Passenger Tax Proceeds Received from the State of Alaska in the Amount of \$797,217.50 and Allocating \$761,705 to the City of Seward and \$35,512.50 to the City of Homer (Mayor).....21
- 2. Ordinance 2011-19-64: Appropriating Supplemental Funding of \$25,276 to Cover Software Maintenance on the CAD System Installed at the 911 Call Center (Mayor).....33

O. NEW BUSINESS

- 2. Ordinances
 - *a. Ordinance 2011-19-66: Appropriating \$240,000 in Unappropriated Interest Income From the Environmental Protection Fund for Additional Funding of the Spruce Bark Beetle Program (Mayor) (Hearing on 02/14/12).....44
 - *b. Ordinance 2011-19-67: Appropriating \$980,430 from the Central Peninsula Hospital Plant Replacement and Expansion Fund for Renovating the Central Peninsula Hospital Imaging Department (Mayor) (Hearing on 02/14/12)47
- 3. Other
 - *a. Request for formal Assembly Objection to the Continuance of the Following Liquor Licenses Due to Unpaid Taxes55

<u>Business Name</u>	<u>License Location</u>
Clam Shell Lodge	Clam Gulch, Alaska
Tustumena Lodge	Kasilof, Alaska

Land's End

Homer, Alaska

Kachemak Bowl

Homer, Alaska

Riverside House

Soldotna, Alaska

*Consent Agenda Items

Kenai Peninsula Borough Assembly

Policies and Procedures Committee

January 17, 2012	4:15 PM	Assembly Chambers George A. Navarre Kenai Peninsula Borough Administration Building, Soldotna
Mako Haggerty, Chair	Charlie Pierce, Vice Chair	Linda Murphy

AGENDA

ITEMS NOT APPERING ON THE REGULAR MEETING AGENDA

- 1. Discussion Regarding Appointed/Elected Service Area Board Members
- K. MAYOR’S REPORT**14
 - 1. Assembly Requests/Responses – None.
 - 2. Agreements and Contracts
 - a. Authorization to Award Contract for Central Peninsula Landfill Leachate Management Professional Services to HDR Alaska Inc.15
 - b. Authorization to Award Contract for Appraisal Consulting Services to MR Valuation Consulting, LLC.....16
 - c. Authorization to Award Contract for Multispectral Imagery and Professional Services to Aero Metric17
 - 3. Other
 - a. Litigation Status Report18
- N. UNFINISHED BUSINESS**
 - 1. Postponed Item
 - a. Resolution 2011-108: Approving a New Senior Clerk Typist Classified Position in the River Center Department (Mayor).....36

O. NEW BUSINESS

1. Resolutions

- a. Resolution 2012-003: Opposition to the Issuance of a Certificate of Need For an Ambulatory Surgery Center in Kenai Alaska (Haggerty, Murphy).....39

[Clerk's Note: Representatives from both, Kahtnu Ventures, LLC and the Central Peninsula Hospital have requested additional time during the public comment period.]

*Consent Agenda Items

January 17, 2012

4:45 PM

Assembly Chambers
George A. Navarre Kenai Peninsula
Borough Administration Building, Soldotna

Hal Smalley, Chair

Linda Murphy, Vice Chair

All Assembly Members

AGENDA

ITEMS NOT APPEARING ON THE REGULAR MEETING AGENDA

1. Review Draft of Federal Legislative Priority Book

*Consent Agenda Items

Assembly Agenda

January 17, 2012 - 7:00 PM

Regular Meeting

Borough Assembly Chambers, Soldotna, Alaska

*Gary Knopp
Assembly President
Seat 1 - Kalifornsky
Term Expires 2012*

*Charlie Pierce
Assembly Vice President
Seat 5-Sterling/Funny
River
Term Expires 2014*

*Mako Haggerty
Assembly Member
Seat 9 - South Peninsula
Term Expires 2012*

*Brent Johnson
Assembly Member
Seat 7 - Central
Term Expires 2013*

*Sue McClure
Assembly Member
Seat 6 - East Peninsula
Term Expires 2012*

*Linda Murphy
Assembly Member
Seat 4 - Soldotna
Term Expires 2013*

*Hal Smalley
Assembly Member
Seat 2 - Kenai
Term Expires 2014*

*Bill Smith
Assembly Member
Seat 8 - Homer
Term Expires 2014*

*Ray Tauriainen
Assembly Member
Seat 3 - Nikiski
Term Expires 2013*

- A. CALL TO ORDER**
- B. PLEDGE OF ALLEGIANCE**
- C. INVOCATION**
- D. ROLL CALL**
- E. COMMITTEE REPORTS**
- F. APPROVAL OF AGENDA AND CONSENT AGENDA**
(All items listed with an asterisk (*) are considered to be routine and non-controversial by the Assembly and will be approved by one motion. There will be no separate discussion of these items unless an Assembly Member so requests, in which case the item will be removed from the Consent Agenda and considered in its normal sequence on the agenda.)
- G. APPROVAL OF MINUTES**
 - *1. January 3, 2012 Regular Assembly Meeting Minutes 1
- H. COMMENDING RESOLUTIONS AND PROCLAMATIONS**
- I. PRESENTATIONS WITH PRIOR NOTICE (20 minutes total)**
- J. PUBLIC COMMENTS ON ITEMS NOT APPEARING ON THE AGENDA (3 minutes per speaker; 20 minutes aggregate)**
- K. MAYOR’S REPORT 14**
 - 1. Assembly Requests/Responses – None.
 - 2. Agreements and Contracts
 - a. Authorization to Award Contract for Central Peninsula Landfill Leachate Management Professional Services to HDR Alaska Inc. 15

b.	Authorization to Award Contract for Appraisal Consulting Services to MR Valuation Consulting, LLC.....	16
c.	Authorization to Award Contract for Multispectral Imagery and Professional Services to Aero Metric	17
3.	Other	
a.	Litigation Status Report	18
L.	ITEMS NOT COMPLETED FROM PRIOR AGENDA – None.	
M.	PUBLIC HEARINGS ON ORDINANCES (Testimony limited to 3 minutes per speaker)	
1.	<u>Ordinance 2011-19-25</u> : Accepting and Appropriating Cruise Ship Passenger Tax Proceeds Received from the State of Alaska in the Amount of \$797,217.50 and Allocating \$761,705 to the City of Seward and \$35,512.50 to the City of Homer (Mayor) (Referred to Finance Committee)	21
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N.	UNFINISHED BUSINESS	
1.	Postponed Item	
a.	<u>Resolution 2011-108</u> : Approving a New Senior Clerk Typist Classified Position in the River Center Department (Mayor) (Referred to Policies and Procedures Committee).....	36
O.	NEW BUSINESS	
1.	Resolutions	
a.	<u>Resolution 2012-003</u> : Opposition to the Issuance of a Certificate of Need For an Ambulatory Surgery Center in Kenai Alaska (Haggerty, Murphy) (Referred to Policies and Procedures Committee)	39

[Clerk's Note: Representatives from both, Kahtnu Ventures, LLC and the Central Peninsula Hospital have requested additional time during the public comment period.]

2. Ordinances

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- *b. Ordinance 2011-19-67: Appropriating \$980,430 from the Central Peninsula Hospital Plant Replacement and Expansion Fund for Renovating the Central Peninsula Hospital Imaging Department (Mayor) (Hearing on 02/14/12) (Referred to Finance Committee)47

3. Other

- *a. Request for formal Assembly Objection to the Continuance of the Following Liquor Licenses Due to Unpaid Taxes (Referred to Finance Department).....55

<u>Business Name</u>	<u>License Location</u>
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Land's End	Homer, Alaska
Kachemak Bowl	Homer, Alaska
Riverside House	Soldotna, Alaska

P. PUBLIC COMMENTS AND PUBLIC PRESENTATIONS (3 minutes per speaker)

Q. ASSEMBLY MEETING AND HEARING ANNOUNCEMENTS

- 1. February 14, 2012 Regular Assembly Meeting 7:00 PM Soldotna

R. ASSEMBLY COMMENTS

S. PENDING LEGISLATION (This item lists legislation which will be addressed at a later date as noted.)

- 1. Ordinance 2011-36: Amending KPB 14.40.155 Temporary Road Closure, to Clarify and Expand the Reasons and Procedure for Closing Borough Roads and Rights-of-Way (Mayor) (Referred to Policies and Procedures Committee) *TABLED 11/01/11*

2. Ordinance 2011-42: Authorizing a Land Exchange with the City of Seward in Support of the City's Public Utility Services (Mayor) (Postponed to 02/14/12) (Referred to Lands Committee)
3. Ordinance 2012-01: Approving the Kenai Peninsula Borough Energy Policy Guide (Mayor) (Hearing on 02/14/12) (Referred to Policies and Procedures Committee)

T. INFORMATIONAL MATERIALS AND REPORTS

U. NOTICE OF NEXT MEETING AND ADJOURNMENT

The next meeting of the Kenai Peninsula Borough Assembly will be held on February 14, 2012, at 7:00 P.M. in the Borough Assembly Chambers, Soldotna, Alaska.

This meeting will be broadcast on KDLL-FM 91.9 (Central Peninsula), KBBI-AM 890 (South Peninsula), K201AO-FM 88.1 (East Peninsula).

Copies of agenda items are available at the Borough Clerk's Office in the Meeting Room just prior to the meeting. For further information, please call the Clerk's Office at 714-2160 or toll free within the Borough at 1-800-478-4441, Ext. 2160. Visit our website at www.borough.kenai.ak.us for copies of the agenda, meeting summaries, ordinances and resolutions.

Kenai Peninsula Borough

Assembly Meeting Minutes

January 3, 2012

Regular Meeting - Soldotna, Alaska

CALL TO ORDER

A Regular Meeting of the Kenai Peninsula Borough Assembly was held on January 3, 2012, in the Borough Assembly Chambers, Soldotna, Alaska. President Knopp called the meeting to order at 7:00 p.m.

PLEDGE OF ALLEGIANCE AND INVOCATION

The Pledge of Allegiance was recited followed by the invocation given by Assembly Member Brent Johnson.

There were present:

Gary Knopp, Presiding
Mako Haggerty
Brent Johnson
Sue McClure
Linda Murphy

Charlie Pierce
Hal Smalley
Bill Smith
Ray Tauriainen

comprising a quorum of the assembly.

Also in attendance were:

Colette Thompson, Borough Attorney
Johni Blankenship, Borough Clerk
Shellie Saner, Deputy Clerk

COMMITTEE REPORTS

Assembly Member Smith said the Finance Committee met and discussed its agenda items.

(07:01:52)

Assembly Member McClure said the Lands Committee met and discussed its agenda items.

Assembly Member Haggerty said the Policies and Procedures Committee met and discussed its agenda items.

Assembly Member Smalley said the Legislative Committee met and discussed its agenda items.

MOTION: Smalley moved to authorize Assembly President Gary Knopp to attend the Rural Health Care Leadership Forum in Phoenix, AZ, February 4 - 7, 2012.

MOTION PASSED: Unanimous.

APPROVAL OF THE AGENDA AND CONSENT AGENDA

MOTION TO APPROVE AGENDA: Pierce moved for the approval of the agenda and consent agenda. (07:12:29)

President Knopp called for additions, corrections or deletions to the agenda or consent agenda.

The following item was withdrawn at the request of the sponsor:

- Ordinance 2011-19-65: Appropriating \$200,000 to Hire One or More Consultants to Assist the Borough in Identifying Directions the Health Care Industry is Taking, the Effects Those Will Likely Have on the Borough and to Help Identify Courses of Action to Take to Curtail Borough Health Care Costs, and also to Fund Other Efforts the Borough May Take to Protect Borough Interests as the Owner of Two Hospitals (Mayor) (Hearing on 02/07/12) (Referred to Finance Committee)

Copies having been made available to the public, Borough Clerk Johni Blankenship noted by title only the resolutions and ordinances on the consent agenda.

- December 6, 2011 Regular Assembly Meeting Minutes
- Resolution 2012-001: Establishing Kenai Peninsula Borough State Capital Project Priorities for the Year 2012 (Legislative Committee) (Referred to Legislative Committee)
- Resolution 2012-002: Authorizing Community Revenue Sharing Program Expenditures for Kasilof and Ninilchik (Mayor) (Referred to Finance Committee)
- Ordinance 2011-19-64: Appropriating Supplemental Funding of \$25,276 to Cover Software Maintenance on the CAD System Installed at the 911 Call Center (Mayor) (Shortened Hearing on 01/17/12) (Referred to Finance Committee)
- Ordinance 2012-01: Approving the Kenai Peninsula Borough Energy Policy Guide (Mayor) (Hearing on 02/14/12) (Referred to Policies and Procedures Committee)
- Petition to Vacate a Portion of the 66-Foot Section Line Easement: 33-Foot on Each Side of the Line Common to Sections 26 and 27, Township 1 North, Range 13 West; as shown on Mead Subdivision (Plat HM 2007-140); Seward Meridian, Alaska and Within the Kenai Peninsula Borough; KPB File 2011-176; Location: West of Mead Court in Clam Gulch (Referred to Lands Committee)

[Clerk's Note: The Planning Commission approved the referenced vacation by unanimous consent during its regularly scheduled meeting of December 12, 2011.]

- Confirming Appointments to the Seldovia Recreational Service Area Board (Mayor) (Referred to Policies and Procedures Committee)

<u>Appointment</u>	<u>Seat</u>	<u>Term Expires</u>
Mark Janes	A	October, 2012
Sheryl Hingley	B	October, 2012
Sandra R. Murray	C	October, 2012
Vivian Rojas	D	October, 2012
Janice Wyland	E	October, 2012

- Correcting the Term of the September 20, 2011 Road Service Area Appointment of Steve Bonebrake (Mayor) (Referred to Policies and Procedures Committee)

<u>Appointment</u>	<u>Seat</u>	<u>Term Expires</u>
Steve Bonebrake	At-Large	September 30, 2013

President Knopp called for public comment with none being offered.

AGENDA APPROVED AS AMENDED: Unanimous.

COMMENDING RESOLUTIONS AND PROCLAMATIONS - None.

PRESENTATIONS WITH PRIOR NOTICE

(07:16:17)

Tim Dillon, of Dillon & Dillon, Timber & Log Wrights LLC gave a presentation regarding KPB Title 21, Chapter 21.18, Anadromous Streams Habitat.

PUBLIC COMMENTS ON ITEMS NOT APPEARING ON THE AGENDA

(07:29:54)

President Knopp called for public comment with none being offered.

MAYOR'S REPORT

(07:30:18)

1. Assembly Requests/Responses - None.
2. Agreements and Contracts
 - a. Authorization to Award Contract for KESA Diamond Ridge Fire Station Professional Design Services to Architects Alaska
 - b. Authorization to Award Contract for North Peninsula Recreation Service Area Alternative Energy Study to RSA Engineering, Inc.

- c. Authorization to Award Contract for Limited Liability Reports to First American Title
 - d. Authorization to Award Purchase of Calcium Chloride - Summer 2012 to Univar USA, Inc.
 - e. Authorization to Award Contract for Custody and Safekeeping of Marketable Debt Securities to Wells Fargo
3. Other
- a. Revenue-Expenditure Report November, 2011
 - b. Budget Revisions November, 2011
 - c. Spruce Bark Beetle Monthly Status Report November, 2011
 - d. National Association of Counties Prescription Drug Discount Card Program Report November, 2011

ITEMS NOT COMPLETED FROM PRIOR AGENDA - None.

PUBLIC HEARING ON ORDINANCES

(07:32:30)

Ordinance 2011-19-24: Appropriating \$100,000 from the General Fund to the Kenai Watershed Forum to Fund Restoration Projects at Anadromous Stream Crossings (Mayor) (Referred to Policies and Procedures Committee)

[Clerk's Note: Motion to enact Ordinance 2011-19-24 was on the floor from the December 6, 2011 meeting.]

President Knopp called for public comment.

The following people spoke in support of Ordinance 2011-19-24:

Robert Ruffner, Executive Director of Kenai Watershed Forum
Tim Navarre, P.O. Box 92, Kenai
Jim Butler, President of the Kenai Watershed Forum Board
David Wartinbee, Past President of the Kenai Watershed Forum Board

The following person spoke in opposition to Ordinance 2011-19-24:

George Pierce, P.O. Box 80, Kasilof

There being no one else who wished to speak, the public comment period was closed.

Assembly Members Murphy and Smalley spoke in support of Ordinance 2011-19-24.

MOTION:

Haggerty moved to amend Ordinance 2011-19-24 as follows:

The third whereas to read, “the borough receives revenues from the State of Alaska’s fish tax, such revenues averaging approximately \$729,162 per year, depending upon the success of the commercial fishing industry for each year, which may be used to help reduce the effect of fisheries business activities on the borough including the expense of any municipal service per AS 29.60.450; and”

Insert a new fifth whereas to read, “Alaska Statute 29.35.010(8) authorizes the borough to acquire, manage, control use, and dispose of property which includes borough rights-of-way; and”

Insert a new sixth whereas to read, “installing culverts in borough right-of-way is an exercise of this power; and”

Section 1 to read, “That \$100,000 is appropriated from the general fund fund balance to account no. 100.94910.12KWF. 43011, to fund a grant agreement with the Kenai Watershed Forum to support culvert restoration projects at anadromous stream crossings within borough rights-of-way in areas of the borough outside of city limits.”

MOTION TO AMEND PASSED:

Unanimous.

MOTION:

Pierce moved to amend Ordinance 2011-19-24 as follows:

Delete the seventh whereas entirely, “[KPB 19.30.010 AUTHORIZES THE BOROUGH TO PROVIDE FOR ECONOMIC DEVELOPMENT WITHIN THE BOROUGH IN THE AREA OUTSIDE OF THE CITIES PURSUANT TO AS 29.35.210(A)(8); AND]”

MOTION TO AMEND PASSED: Unanimous.

Assembly Members Johnson , Tauriainen, Smith and Haggerty spoke in support of Ordinance 2011-19-24.

President Knopp passed the gavel to Vice President Pierce and spoke in opposition to Ordinance 2011-19-24.

VOTE ON MOTION TO ENACT AS AMENDED:

Yes: Haggerty, Johnson, McClure, Murphy, Pierce, Smalley, Smith, Tauriainen

No: Knopp

Absent: None

MOTION TO ENACT AS AMENDED PASSED: 8 Yes, 1 No, 0 Absent

Vice President Pierce returned the gavel.

(08:07:20)

Ordinance 2011-19-56: Accepting and Appropriating Funding from the State of Alaska in the Amount of \$181,791 for Community Purposes Under the State's 2011/2012 Community Revenue Sharing Program (Mayor) (Referred to Finance Committee)

MOTION: Smith moved to enact Ordinance 2011-19-56.

President Knopp called for public comment with none being offered.

MOTION: Smith moved to amend Ordinance 2011-19-56 as follows:

Section 2 table, Kalifornsky Beach to read, "Cook Inlet Aquacultural Center | Public meeting Room Improvements | \$[1,683] 3,367, Tsalteshi Trails Association | Trail Improvements | \$[1,683] 3,366, [KP FOOD BANK | COMPLETE STORAGE EXPANSION | \$3,367]"

Assembly Member Johnson spoke in support of the amendment to Ordinance 2011-19-56.

VOTE ON MOTION TO AMEND:

Yes: Haggerty, Johnson, McClure, Murphy, Pierce, Smith, Tauriainen, Knopp

No: Smalley

Absent: None

MOTION TO AMEND PASSED: 8 Yes, 1 No, 0 Absent

VOTE ON MOTION TO ENACT AS AMENDED:

Yes: Haggerty, Johnson, McClure, Murphy, Pierce, Smalley, Smith, Tauriainen, Knopp
No: None
Absent: None
MOTION TO ENACT AS AMENDED PASSED: 9 Yes, 0 No, 0 Absent

(08:15:33)

Ordinance 2011-19-57: Appropriating \$44,883 in Supplemental Funding for a New Position and Associated Costs at the River Center (Mayor) (Referred to Finance Committee)

MOTION: Smith moved to enact Ordinance 2011-19-57.

President Knopp called for public comment.

The following people spoke in opposition to Ordinance 2011-19-57:

Tim Navarre, P.O. Box 92, Kenai
George Pierce, P.O. Box 80, Kasilof

There being no one else who wished to speak, the public comment period was closed.

Assembly Members Smith, Murphy, Haggerty and Johnson spoke in support of Ordinance 2011-19-57.

Assembly Members Tauriainen, Pierce and Knopp spoke in opposition to Ordinance 2011-19-57.

VOTE ON MOTION TO ENACT:

Yes: Haggerty, Johnson, McClure, Murphy, Smalley, Smith
No: Pierce, Tauriainen, Knopp
Absent: None
MOTION TO ENACT PASSED: 6 Yes, 3 No, 0 Absent

(08:39:50)

Ordinance 2011-19-58: Appropriating \$30,000 from the Nikiski Fire Service Area Capital Project Fund for a Corrosive Water Mitigation System at Nikiski Fire Station #2 (Mayor) (Referred to Finance Committee)

MOTION: Smith moved to enact Ordinance 2011-19-58.

President Knopp called for public comment with none being offered.

MOTION TO AMEND: Smith moved to amend Ordinance 2011-19-58 as follows:

The second whereas to read, “water supplied by Nikishka Bay Utilities has a [HIGH PH] low pH level and is considered corrosive; and:”

The third whereas to read, “although drinkable, because of its [HIGH PH] low pH level, it will have a negative long term impact on the piping, equipment and appliances at Fire Station #2; and”

MOTION TO AMEND PASSED: Unanimous.

VOTE ON MOTION TO ENACT AS AMENDED:

Yes: Haggerty, Johnson, McClure, Murphy, Pierce, Smalley, Smith, Tauriainen, Knopp

No: None

Absent: None

MOTION TO ENACT AS AMENDED PASSED: 9 Yes, 0 No, 0 Absent

(08:41:52)

Ordinance 2011-19-59: Appropriating \$100,000 for the Assessing Department to Obtain Contractual Assistance for the 2012 Tax Year Appraisal of the Tesoro Refinery (Mayor) (Referred to Finance Committee)

MOTION: Smith moved to enact Ordinance 2011-19-59.

President Knopp called for public comment.

The following person spoke in opposition to Ordinance 2011-19-59:

Wayne Ogle, 50160 Birch Road, Nikiski

There being no one else who wished to speak, the public comment period was closed.

VOTE ON MOTION TO ENACT:

Yes: Haggerty, Johnson, McClure, Murphy, Pierce, Smalley, Smith, Tauriainen, Knopp

No: None

Absent: None

MOTION TO ENACT PASSED: 9 Yes, 0 No, 0 Absent

(09:01:22)

Ordinance 2011-19-60: Accepting and Appropriating \$22,243 from the Alaska Department of Military and Veteran Affairs, Division of Homeland Security and Emergency Management to Support the Community Emergency Response Teams (Mayor) (Referred to Finance Committee)

MOTION: Smith moved to enact Ordinance 2011-19-60.

President Knopp called for public comment with none being offered.

VOTE ON MOTION TO ENACT:

Yes: Haggerty, Johnson, McClure, Murphy, Pierce, Smalley, Smith, Tauriainen, Knopp
No: None
Absent: None
MOTION TO ENACT PASSED: 9 Yes, 0 No, 0 Absent

(09:03:08)

Ordinance 2011-19-61: Appropriating \$20,000 for the Hearing Officer and Clerk's Expenses to Fund the Hearing Process in KPB Chapter 21.50 Establishing Enforcement Procedures for Violations of Title 21 (Mayor) (Referred to Finance Committee)

MOTION: Smith moved to enact Ordinance 2011-19-61.

President Knopp called for public comment with none being offered.

VOTE ON MOTION TO ENACT:

Yes: Haggerty, Johnson, McClure, Murphy, Pierce, Smalley, Smith, Tauriainen, Knopp
No: None
Absent: None
MOTION TO ENACT PASSED: 9 Yes, 0 No, 0 Absent

(09:04:23)

Ordinance 2011-19-62: Authorizing a \$26,500 Intergovernmental Loan and Appropriating Funds to the Seldovia Recreational Service Area to Provide Start-Up Funding (Mayor, Haggerty) (Referred to Finance Committee)

MOTION: Smith moved to enact Ordinance 2011-19-62.

President Knopp called for public comment with none being offered.

VOTE ON MOTION TO ENACT:

Yes: Haggerty, Johnson, McClure, Murphy, Pierce, Smalley, Smith, Tauriainen, Knopp
No: None
Absent: None
MOTION TO ENACT PASSED: 9 Yes, 0 No, 0 Absent

(09:05:42)

Ordinance 2011-19-63: Accepting a Grant of \$270,850 from the Alaska Department of Military and Veteran Affairs, Division of Homeland Security and Emergency Management, and Appropriating \$265,850 of that Award to Purchase Mass Casualty and Alternative Care Response Equipment and Supplies, and to Conduct Training Exercises, and Accepting \$5,000 for a Security Vulnerability Assessment to be Conducted by the State (Mayor) (Referred to Finance Committee)

MOTION: Smith moved to enact Ordinance 2011-19-63.

President Knopp called for public comment with none being offered.

Assembly Members Johnson, Pierce and Knopp spoke in opposition to Ordinance 2011-19-63.

VOTE ON MOTION TO ENACT:

Yes: McClure, Murphy, Smalley, Smith
No: Haggerty, Johnson, Pierce, Tauriainen, Knopp
Absent: None
MOTION TO ENACT FAILED: 4 Yes, 5 No, 0 Absent

(09:17:58)

Ordinance 2011-42: Authorizing a Land Exchange with the City of Seward in Support of the City's Public Utility Services (Mayor) (Referred to Lands Committee)

MOTION: McClure moved to enact Ordinance 2011-42.

President Knopp called for public comment with none being offered.

MOTION TO POSTPONE: McClure moved to postpone Ordinance 2011-42 until February 14, 2012.

VOTE ON MOTION TO POSTPONE:

Yes: Haggerty, Johnson, McClure, Murphy, Pierce, Smalley, Smith, Tauriainen, Knopp
No: None
Absent: None
MOTION TO POSTPONE PASSED: 9 Yes, 0 No, 0 Absent

(09:20:43)

Ordinance 2011-43: Amending KPB 22.40.010 Regarding Scheduling Assembly Meetings (Murphy, Smith) (Referred to Policies and Procedures Committee)

MOTION: Haggerty moved to enact Ordinance 2011-43.

President Knopp called for public comment with none being offered.

MOTION: Haggerty moved to amend Ordinance 2011-43 as follows:

Section 1, paragraph A to read, "Unless otherwise approved as provided in this section, regular meetings of the assembly shall be held on the first and third Tuesday of each month at 7:00 p.m. in the assembly room of the Borough Administration Building. The

assembly shall by resolution or motion establish the date and place for assembly meetings by approving a calendar for the upcoming year. The assembly shall, at a minimum, schedule at least two meetings per month for 8 months each year [MEET AT LEAST ONCE EACH MONTH].”

MOTION TO AMEND PASSED: Unanimous.

VOTE ON MOTION TO ENACT AS AMENDED:

Yes: Haggerty, Johnson, McClure, Murphy, Pierce, Smalley, Smith, Tauriainen, Knopp

No: None

Absent: None

MOTION TO ENACT AS AMENDED PASSED: 9 Yes, 0 No, 0 Absent

UNFINISHED BUSINESS - None.

NEW BUSINESS

(09:27:07)

Approval of the 2012 Assembly Meeting Schedule (Knopp) (Referred to Policies and Procedures Committee)

MOTION: Haggerty moved to approve the 2012 Assembly Meeting Schedule.

VOTE ON MOTION TO APPROVE:

Yes: Haggerty, Johnson, McClure, Murphy, Pierce, Smalley, Smith, Tauriainen, Knopp

No: None

Absent: None

MOTION TO APPROVE PASSED: 9 Yes, 0 No, 0 Absent

PUBLIC COMMENTS AND PUBLIC PRESENTATIONS

(09:29:31)

President Knopp called for public comment.

Dr. James Zirul and **Dr. Henry Krull** addressed the Assembly regarding Kahtnu Ventures, LLC, Ambulatory Surgical Center, Kenai, application for a Certificate of Need.

There being no one else who wished to speak, the public comment period was closed.

ASSEMBLY MEETING AND HEARING ANNOUNCEMENTS

(09:34:20)

The next meeting of the Kenai Peninsula Borough Assembly was scheduled for January 17, 2012, at 7:00 p.m. in the Borough Assembly Chambers, Soldotna, Alaska.

ASSEMBLY COMMENTS

(09:34:42)

Assembly President Knopp noted that all Assembly Members except Ray Tauriainen would be traveling to Juneau February 6 - 10 , 2012 to attend the Alaska Municipal League, Legislative Conference. He also stated he and Assembly Members Pierce and Smalley would be attending the Stand Alone Gas Pipeline public meeting on January 5, 2012.

Assembly Member Haggerty thanked Mark Janes, Sheryl Hingley, Sandra Murray, Vivian Rojas and Janice Wyland for serving their community as the first Seldovia Recreational Service Area Board Members. He wished everyone a happy New Year.

Assembly Member Johnson thanked everyone for the warm wishes regarding his new grandson.

Assembly Member McClure wished everyone a happy New Year, and noted her appreciation for all of the work done by the Department Directors, Administration and fellow Assembly Members. She encouraged her constituents in the East Peninsula to get involved with their service areas and sign up to be board members.

Assembly Member Tauriainen requested an excused absence from the January 17, 2012 meeting

Assembly Member Smith wished everyone a happy New Year, and stated it was largely due to the borough staff that things were still on track. He said people could be proud of the job done by borough employees.

Assembly Member Murphy stated that the Roads Department was doing very well keeping up with the winter road conditions.

Assembly Member Smalley said he was looking forward to working with the new Administration in the next year, and he wished everyone a happy New Year.

Vice President Pierce noted his appreciation for the energy plan brought forward by the Administration. He complimented the Spruce Bark Beetle Department for all of their efforts and noted how well the fire wood program went.

President Knopp congratulated the Administration and Mayor stating the transition had been easy. He noted the good work being done by the Department of Transportation in the Cooper Landing and Seward area. He thanked the constituents who had addressed him regarding actions taken on Resolution 2011-106. He requested an excused absence from the January 17, 2012 meeting.

ADJOURNMENT

With no further business to come before the assembly, President Knopp adjourned the meeting at 9:45 p.m.

I certify the above represents accurate minutes of the Kenai Peninsula Borough Assembly meeting of January 17, 2012.

Johni Blankenship, MMC, Borough Clerk

Approved by Assembly: _____



KENAI PENINSULA BOROUGH

144 North Binkley St. Soldotna, Alaska 99669-7520
Toll-Free within the Borough 1-800-478-4441
Phone 907-714-2150 • Fax 907-714-2377
www.borough.kenai.ak.us

**MIKE NAVARRE
BOROUGH MAYOR**

MAYOR'S REPORT TO THE ASSEMBLY

TO: Gary Knopp, Assembly President
Kenai Peninsula Borough Assembly Members

FROM: Mike Navarre, Kenai Peninsula Borough Mayor *P.O. for MN*

DATE: January 17, 2012

Assembly Requests/ Response

None

Agreements and Contracts

- a. Authorization to Award Contract for Central Peninsula Landfill Leachate Management Professional Services to HDR Alaska Inc.
- b. Authorization to Award Contract for Appraisal Consulting Services to MR Valuation Consulting, LLC.
- c. Authorization to Award Contract for Multispectral Imagery and Professional Services to Aero Metric

Other

- a. Litigation Status Report



KENAI PENINSULA BOROUGH

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**MIKE NAVARRE
BOROUGH MAYOR**

MEMORANDUM

TO: Mike Navarre, Mayor
THRU: Mark Fowler, Purchasing & Contracting Office *MF*
FROM: Jack Maryott, Solid Waste Director *JM*
DATE: December 28, 2011
SUBJECT: Authorization to Award Contract for Central Peninsula Landfill Leachate Management Study – Professional Services

The Purchasing and Contracting Office formally solicited and received proposals for the Central Peninsula Landfill Leachate Management Study. Proposal packets were released on November 17, 2011 and the Request for Proposals was advertised in the Peninsula Clarion and Anchorage Daily News on November 17, 2011.

The project consists of evaluation of off-site and on-site options for long-term management of leachate at the Central Peninsula Landfill in Soldotna.

On the due date of December 13, 2011 three (3) proposals were received and ranked by a review committee as follows:

<u>FIRMS</u>	<u>TOTAL SCORE</u>
HDR Alaska Inc.	235
CH2M Hill	233
Shannon & Wilson Inc.	221

The highest ranking proposal, which includes a cost factor, was submitted by HDR Alaska Inc. with a lump sum cost proposal of \$114,118.20. The proposal review committee recommends award of contract to HDR Alaska Inc. Your approval for this award is hereby requested.

Funding for this project is in account number 411.32122.12LMS.43011.

Paul Ostro

Mike Navarre, Mayor

12/28/11

Date

RECEIVED

DEC 27 2011

KPB
FINANCE ADMINISTRATION

FINANCE DEPARTMENT FUNDS VERIFIED	
ACCT #411.32122.12LMS.43011 \$114,118.20	
15 BY: <i>CSW</i>	DATE: <i>12/28/11</i>



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MIKE NAVARRE
BOROUGH MAYOR

MEMORANDUM

TO: Mike Navarre, Mayor

THRU: Mark Fowler, Purchasing & Contracting Officer

FROM: Tom Anderson, Assessor *TCA*

DATE: December 21, 2011

SUBJECT: Authorization to Award Contract for Appraisal and Appraisal Consulting Services

The Purchasing and Contracting Office formally solicited and received proposals for the appraisal and appraisal consulting services. Proposal packets were released on November 23, 2011, and the Request for Proposal was advertised in the Peninsula Clarion on November 23, 2011.

The project consists of appraisal of the Kenai Tesoro Refinery and consulting services in support of the borough's attempt to reach agreement with Tesoro as to the value of the refinery as of January 1, 2012. If no such agreement can be reached, contractors will provide expert testimony in support of their appraisal in hearings before the Board of Equalization.

On the due date of December 14, 2011, one (1) proposal was received and ranked by a review committee.

The proposal, which includes a cost factor, was submitted by MR Valuation Consulting, LLC with a lump sum cost proposal of \$38,250. The proposal review committee recommends award of a contract to **MR Valuation Consulting, LLC**. Your approval for this award is hereby requested.

Funding for this project is in account number ^{100.11520.12TS043011} ~~(pending passage of funding ordinance)~~.

Paul Ost

 Mike Navarre, Mayor

Date 1/5/12

RECEIVED
 JAN 04 2012

KPB
 FINANCE ADMINISTRATION

FINANCE DEPARTMENT	
FUNDS VERIFIED	
\$38,250.00	
ACT # 100.11520.12TS043011	
BY: <i>CBW</i>	DATE: 1/4/12

C Chapman



KENAI PENINSULA BOROUGH
 144 North Binkley Street • Soldotna, Alaska 99669-7520
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**MIKE NAVARRE
 BOROUGH MAYOR**

MEMORANDUM

TO: Mike Navarre, Mayor
THRU: Mark Fowler, Purchasing & Contracting Officer *MJ*
FROM: Max Best, Director – Planning Department *MB for MB*
DATE: January 4, 2012
SUBJECT: Authorization to Award Contract for Multispectral Imagery and Professional Services

The Purchasing and Contracting Office formally solicited and received proposals for Multispectral Imagery and Professional Services. Proposal packets were released on November 28, 2011 and the Request for Proposal was advertised in the Peninsula Clarion on November 28, 2011.

The project consists of providing aerial photography or satellite imagery of the land within the Borough administrative boundary Coastal Zone Management area.

On the due date of December 15, 2011 three (3) proposals were received and ranked by a review committee as follows:

<u>FIRM</u>	<u>TOTAL SCORE</u>
Aero Metric	286
Kodiak Mapping	186
Tridex	107

The highest ranking proposal, which includes a cost factor, was submitted by Aero Metric Inc. with a lump sum cost proposal of \$162,279.00. The proposal review committee recommends award of a contract to Aero Metric Inc. Your approval for this award is hereby requested.

Funding for this project is in account number 271.21135.11124.43011.

Paul Ostro

 Mike Navarre, Mayor

1/5/12

 Date

FINANCE DEPARTMENT FUNDS VERIFIED	
ACT #271.21135.11124.43011 - \$162,279.00	
BY: <i>CBW</i>	DATE: <i>1/5/12</i>

Chap

RECEIVED

JAN 04 2012

KPB
 FINANCE ADMINISTRATION



KENAI PENINSULA BOROUGH

Legal Department

144 North Binkley Street • Soldotna, Alaska 99669-7520
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MIKE NAVARRE
BOROUGH MAYOR

MEMORANDUM

TO: Gary Knopp, Assembly President
Joe Arness, President, Board of Education
Members, Kenai Peninsula Borough Assembly
Members, Kenai Peninsula Borough School District Board of Education

THRU: Mike Navarre, Borough Mayor *P.O. for MN*

FROM: *CT* Colette Thompson, Borough Attorney

COPY: Risk Management Committee
Julie Cisco, Risk Manager

DATE: December 30, 2011

SUBJECT: Litigation Status Report

Following is a summary of the major lawsuits in which the borough and school district are involved. This list does not include the real property tax foreclosures and numerous standard tax collection cases pursued by the borough.

1. **Alliance of Concerned Taxpayers, Inc. v. KP.B.** Case No. 3KN-06-1129 CI / S-13596 and S-13883. The Alliance of Concerned Taxpayers, Inc. ("ACT") sued the borough for alleged violations of two initiatives: 1) limiting the sales tax to 2 percent and requiring 60 percent voter approval to increase it; and 2) requiring 60 percent voter approval before spending more than \$1 million on a capital improvement project. Final Judgment was entered July 30, 2009, in favor of the borough on both issues. ACT appealed that decision to the Alaska Supreme Court. The superior court awarded attorney fees to the borough on the sales tax issue but declined to award attorney fees to the borough on the capital improvement issue because it held ACT qualified as a public interest litigant on that issue. The borough appealed the public interest litigant finding. Briefing is complete and oral argument was held in September, 2011 on all issues in the case. The borough is now awaiting the supreme court's decision.

2. **Alliance of Concerned Taxpayers, Inc. v. KPB and KPBSD.** Case No. 3KN-07-896 CI / S-13594. The Alliance of Concerned Taxpayers (“ACT”) sued the borough and school district asking the court to require the assembly and school board to vacate the seats occupied by members elected in October 2007 who had already served two consecutive terms based on initiatives approved in October 2007. The court held that the school board term limit initiative was not legal, that applying the assembly term limits to candidates elected in 2007 was not legal, and that the rest of the assembly term limits ordinance was valid. The parties filed cross-motions to determine which party prevailed and whether ACT is a public interest litigant. The court concluded that neither party prevailed for purposes of awarding attorney fees. ACT appealed that order to the Alaska Supreme Court and is seeking full attorney fees from the borough. The Supreme Court recently issued an order consolidating this case with case no. S-13596 described above in paragraph one for purposes of issuing its decision. Briefing and oral argument are finished in both cases and which are now ripe for a decision from the court.

3. **Horan v. KPB Board of Equalization, Pacific Park Limited Partnership.** Case No. 3KN-07-686 CI/S-13333. Appeal of the July 11, 2007, board of equalization decision regarding the valuation of Pacific Park Limited Partnership apartments. The superior court issued a decision in October 2008. KPB (Horan) appealed that decision to the Alaska Supreme Court. Settlement negotiations were not fruitful. The Supreme Court remanded the case back to the board of equalization to provide further findings to support its decision. Pacific Park moved for attorney’s fees and costs in superior court which the Assessor opposed. The court has not issued a decision on fees and costs to date. The hearing on remand was held November 17, 2011. The BOE has issued a decision on remand and the deadline for an appeal is January 18, 2012. More information will be provided in the next status report.

4. **Price v. Kenai Peninsula Borough and Johni Blankenship, Clerk.** Case No. 3KN-11-404 CI. James Price sued the borough for its rejection of referendum petition no. 2010-01. This petition requested a borough-wide vote to repeal ordinance 2008-28, which allowed the cities in the borough to opt out of the seasonal sales tax exemption. The petition was rejected because it constituted local and special legislation and directly conflicted with AS 29.45.700 delegating to the assembly the authority to allow the city to tax sources that the borough does not. Both parties filed motions for summary judgment, oppositions, and replies thereto. Oral argument was held before the superior court on November 8, 2011. The parties are awaiting decision.

5. **Reekie v. KPB, KPBSD, et al.** Case no. 3AN-11-12440 CI. Justin Reekie, Raymond Reekie and Shawn Leigh Reekie filed suit against the borough, the school district, The American Legion, Department of Alaska, Inc. and numerous other entities and individuals for damages allegedly sustained by Justin during baseball batting practice held at Homer high School on or

about March 24, 2010. The borough's and school district's answers are due mid January, 2012.

6. **State v. Offshore Systems-Kenai.** Case No. 3KN-08-453 CI/ S-13994. The State sued OSK to enjoin it from blocking public access to the beach across property now owned by OSK. The borough filed a motion to intervene in this case, which the court granted. All parties have filed motions for summary judgment and the court denied the state's motion for a preliminary judgment that would have allowed beach access. A two-week trial was completed and post-trial motion work is finished. The Court issued a final judgment in the borough's and state's favor and the borough was awarded costs and attorney fees as it was designated a prevailing party. However, OSK has appealed to the Alaska Supreme Court and was granted a stay of award of costs and attorney's fees pending resolution by the Supreme Court. Briefing is complete, oral argument was held October 21, 2011, and we are awaiting a decision from the Alaska Supreme Court.

7. **Uei v. KPB.** Case No. 3KN-11-278 CI. Katherine Uei and her minor son sued the borough for injuries allegedly sustained when her son was involved in an altercation with a member of the public while in the lobby of the Nikiski pool. The borough filed an answer April 7, 2011, and discovery is in process.

8. **Washington's Army v. KPB.** Case No. 3SW-07-30 CI. Individuals who refer to themselves as Washington's Army filed an appeal from the Mary Lowell replat, which would finalize a partial vacation of Washington Street in Seward. The City of Seward is considering relocating the proposed Mary Lowell Center, which would in effect moot the case for the "Army." Therefore, the "Army" requested a stay to which the borough did not object as its only interest in this matter is approving a plat, regardless of when that approval occurs. The court has granted the parties' motion to lift the stay, which initiates the time frame within which the National Park Service could file the final plat. The National Park Service has indicated to the platting division that it would not proceed with the plat. If a final plat is not filed in the time frame, the parties will move for dismissal of the case. On October 11, 2011, the court dismissed the case for lack of prosecution. The borough does not object to this dismissal.

Introduced by: Mayor
Date: 10/11/11
Hearing: 12/06/11
Action: Postponed Until 01/17/12
Date: 01/17/12
Action:
Vote:

**KENAI PENINSULA BOROUGH
ORDINANCE 2011-19-25**

**AN ORDINANCE ACCEPTING AND APPROPRIATING CRUISE SHIP PASSENGER
TAX PROCEEDS RECEIVED FROM THE STATE OF ALASKA IN THE AMOUNT OF
\$797,217.50 AND ALLOCATING \$761,705 TO THE CITY OF SEWARD AND \$35,512.50
TO THE CITY OF HOMER**

1 **WHEREAS**, in the August 22, 2006, State of Alaska election, Alaska voters approved the
2 initiative in Ballot Measure 2, enacting AS 43.52.200 – 43.52.295, which imposed
3 a tax on travel aboard certain cruise ships travelling in Alaska waters; and

4 **WHEREAS**, the Alaska legislature has authorized sharing of Commercial Passenger Vessel
5 (CPV) excise tax collections with eligible ports of call in the State; and

6 **WHEREAS**, CPV excise tax collections are derived from taxes imposed on cruise ship
7 passengers; and

8 **WHEREAS**, the City of Seward and the City of Homer are eligible ports of call for receiving
9 CPV funds; and

10 **WHEREAS**, when the eligible ports of call are cities located in a borough then the cities and
11 the borough each received \$2.50 for each passenger; and

12 **WHEREAS**, the total amount received by the borough from the State of Alaska for the 2009
13 and 2010 calendar CPV programs was \$797,217.50; and

1 **WHEREAS**, the City of Seward and City of Homer have requested that funds received by the
2 borough that are derived from cruise ship passengers in each city be appropriated
3 to each city for port improvement projects; and

4 **WHEREAS**, the intended use of these funds by the cities of Seward and Homer will comply
5 with AS 43.52.230(b), federal legislation and court rulings that permit the use of
6 these funds for port facilities, harbor infrastructure, and other services provided to
7 the commercial passenger vessels and the passengers on board those vessels;

8 **NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI**
9 **PENINSULA BOROUGH:**

10 **SECTION 1.** That the mayor is authorized to execute grant agreements and any other
11 documents deemed necessary to expend the funds and to fulfill the intents and
12 purposes of this ordinance.

13 **SECTION 2.** That \$797,217.50 received from the State of Alaska in FY2010 and FY2011 for
14 the commercial passenger vessel excise tax collection program be appropriated
15 from the miscellaneous grant fund fund balance to account
16 271.94910.11CPV.43011 contract services, for payment to the City of Seward in
17 the amount of \$761,705.00 and to the City of Homer in the amount of \$35,512.50
18 to be used for port improvement projects.

19 **SECTION 3.** This ordinance shall become effective immediately upon enactment.

20 **ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS ***
21 **DAY OF * 2012.**

Gary Knopp, Assembly President

ATTEST:

Johni Blankenship, Borough Clerk

Yes:

No:

Absent:



KENAI PENINSULA BOROUGH

Grant Management

MEMORANDUM

DAVID R. CAREY
BOROUGH MAYOR

TO: Gary Knopp, Assembly President
Members of the Kenai Peninsula Assembly

THRU: David R. Carey, Borough Mayor *Willow for DR Carey*
Craig Chapman, Finance Director *CH for CCC*

FROM: Brenda Ahlberg, Community & Fiscal Projects Manager *BA*

DATE: September 26, 2011

SUBJECT: Ordinance 2011-19-25, accepting and appropriating cruise ship passenger tax proceeds received from the State of Alaska in the amount of \$797,217.50 and allocating \$761,705 to the City of Seward and \$35,512.50 to the City of Homer

In the August 22, 2006, election the Alaska voters approved the initiative in Ballot Measure No. 2, which imposed a tax on passengers travelling for at least 72 hours aboard a vessel with 250 or more berths, that anchors or moors in Alaska waters with the intent to allow passengers to disembark. The initiative enacted statutes AS 43.52.200 - AS 43.52.295 that provide for the levy and collection of this tax and the disposition of the proceeds.¹ The taxes are deposited into a state fund called the Commercial Passenger Vessel (CPV) tax account. A portion of the proceeds are disbursed to the first seven ports of call each year. If ports of call are located in a city within a borough, \$2.50 per passenger is distributed to both the city and to the borough in which the city is located. Both the City of Seward and the City of Homer have qualified for these funds, and the borough has accordingly received proceeds from the CPV account.

For the calendar year 2007, the borough awarded the City of Seward CPV funds in the amount of \$383,652.50. For the calendar year 2008, the borough awarded the City of Seward CPV funds in the amount of \$345,747.50 and awarded the City of Homer CPV funds in the amount of \$2,897.50. All of the awards were issued by way of a grant agreement and performance period ending June 30, 2011.

For calendar years 2009 and 2010, the borough requested from the State some determination language regarding the distribution of funds; therefore, deferring the possibility of awarding the funds to the cities until a response was considered. The intent of the request was to consider

¹ Following settlement of a lawsuit on this tax the statutes were amended in 2010 to change the total tax, the allowed uses of the funds, and other changes not relevant here.

distributing CPV funds to other potentially eligible organizations. However, for the purpose of program oversight as governed by AS 43.52.200 - AS 43.52.295, recommendation was made that the funds be allocated only to entities that would use the funds for qualified projects as defined in AS 43.52.230 that directly benefit the ships and their passengers.

AS 43.52.230 (d) requires that funds are to be used on “projects that (1) improve port and harbor infrastructure, (2) provide services to commercial passenger vessels and the passengers on board those vessels, or (3) improve the safety and efficiency of the interstate and foreign commercial activities in which the vessels and the passengers on board those vessels are engaged.”

This ordinance will allocate \$761,705 to the City of Seward for projects described in the city manager’s letter dated September 3, 2011, including: (1) cruise ship dock maintenance and repairs, (2) dredging, (3) harbor restroom repairs and upgrades, (4) bus transportation for cruise passengers, (5) ambulance services, and (6) cruise ship berth enhancements. Additionally, this ordinance will allocate \$35,512.50 to the City of Homer for projects described in the city manager’s letter dated September 29, 2011, including: port and harbor improvements that include a cruise ship staging area and restroom and a pedestrian trail and amenities around the east side of the harbor which connects with the Spit Trail.

The borough received the calendar year funds as follows:

<u>Port</u>	<u>2009</u>	<u>2010</u>	<u>Total</u>
Seward	\$387,412.50	\$374,292.50	\$761,705.00
Homer	\$3,725.00	\$31,787.50	\$35,512.50

The appropriations to the City of Seward and the City of Homer will be executed by way of grant agreements. Brenda Ahlberg, the Community & Fiscal Projects Manager, shall oversee the program.

FINANCE DEPARTMENT FUNDS VERIFIED	
Acct. No.	<u>271.27910 Fund Bal</u>
Amount	<u>797,217.50</u>
By:	<u>BA</u> Date: <u>9/29/11</u>



City of Homer

City Manager

*491 East Pioneer Avenue
Homer, Alaska 99603
907-235-8121, X-2222*

Fax (907) 235-3148 E-mail: wwrede@ci.homer.ak.us Web Site: www.ci.homer.ak.us

September 29, 2011

Mayor David Carey
Kenai Peninsula Borough

SUBJECT: 2009 AND 2010 CVT

Dear Mayor Carey:

I am writing to confirm that the City of Homer wishes to receive 2009 and 2010 Cruise Vessel Tax receipts from the Borough. The City understands that you are sponsoring an Ordinance that would make the Borough's share of this tax for vessel landings in Homer available to the City. The City appreciates that and understands that the amount for these two calendar years is \$35,512.50.

The City of Homer recognizes that these funds must be used for port and harbor improvements that benefit cruise ship passengers and will comply with the provisions contained in AS 43.52.200-298, SB 256, and HB 310. The funds will be used for port and harbor improvements that include a cruise ship staging area and restroom and a pedestrian trail and amenities around the east side of the harbor which connects with the Spit Trail.

Thanks for your time and consideration. Please do not hesitate to contact us if you have any questions.

Sincerely,

Walt Wrede
City Manager



- Main Office (907) 224-4050
- Police (907) 224-3338
- Harbor (907) 224-3138
- Fire (907) 224-3445
- City Clerk (907) 224-4046
- Community Development (907) 224-4049
- Utilities (907) 224-4050
- Fax (907) 224-4038

September 3, 2011

Mayor David Carey
Kenai Peninsula Borough
144 N. Binkley
Soldotna, Alaska 99669

RE: Cruise ship passenger tax proceeds

Dear Mayor Carey,

On behalf of the community of Seward, I would like to thank the Borough Assembly and administration for allocating the Commercial Passenger Vessel (CPV) excise tax to the cities of Seward and Homer, based on their pro-rata share of cruise ship passengers visiting each port. These funds have been critical to Seward's ability to provide improvements to our port infrastructure in support of the cruise ships and their security.

Over the past two years, Seward has used the bulk of its CPV funds to complete construction of a new security dock in the northeast section of the Small Boat Harbor (see attached photos). This dock has been specifically configured to ensure immediate response, greater security, and fire protection to cruise ships and their passengers, and serves numerous response vessels in the harbor. This project also consolidates facilities for the public entities that share responsibility for port security, including the US Coast Guard, Seward Fire Department, U.S. Park Service, and Alaska State Troopers. In addition to dock construction, CPV proceeds have purchased new engines for the fire and rescue vessels providing direct response to cruise ship vessels, and assisted the Army Corps of Engineers in repairing flaws in the harbor breakwater, to ensure protection of vessels from wave action.

The City of Seward would like to formally request the continued allocation of cruise ship head tax proceeds to the communities with cruise ship passengers, based on their pro-rata share of passengers. Specifically, we seek an appropriation from the Borough of cruise ship passenger proceeds for calendar years 2009 and 2010. According to our records, calendar year 2009 CPV tax proceeds were received in January 2010 (approximate amount of \$387,412), and 2010 CPV tax proceeds were received in February, 2011 (approximate amount of \$374,293).

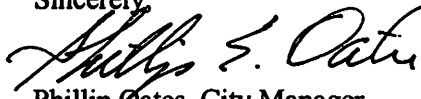
AS 43.52.230(b) requires that "a city or borough that receives a payment under this subsection shall use the funds for port facilities, harbor infrastructure, and other services provided to the commercial passenger vessels and the passengers on board those vessels." Seward's planned use of these 'ports-of-call' funds will entirely meet these requirements. We have a number of priority projects identified for utilization of CPV funds, including: 1) cruise ship dock maintenance and repairs (\$220K); 2) dredging (\$275K); 3) harbor restroom repairs and upgrades (\$100K); 4) bus transportation for cruise passengers (\$80K); 5) ambulance services (\$10K); 6) cruise ship berth enhancements (\$1.31 million), as well as other port and harbor infrastructure needs.



We understand that in addition to the 'port of call' funds distributed to the first seven ports of call based on the criteria established in AS 43.52.230(b), the legislature may distribute additional CPV tax proceeds to projects that meet those criteria or that help to "improve the safety and efficiency of the interstate and foreign commerce activities in which the vessels and the passengers on board those vessels are engaged." Our hope is that these funds could be used to address and mitigate Borough-wide impacts of providing services to the cruise ships and their passengers. We will join our efforts with those of the Borough to maximize use of this funding source throughout the peninsula.

We appreciate your support of our request, and look forward to working with you to enhance facilities for the cruise ship industry in our region.

Sincerely

A handwritten signature in cursive script, appearing to read "Phillip S. Oates".

Phillip Oates, City Manager

Attachment: AS 43.52 *Excise Tax on Travel Aboard Commercial Passenger Vessels*



Seward Harbor: Security (Z) Float
August 2011

Article 02. EXCISE TAX ON TRAVEL ABOARD COMMERCIAL PASSENGER VESSELS

Sec. 43.52.200. Levy of excise tax on overnight accommodations on commercial passenger vessels.

There is imposed an excise tax on passengers traveling on commercial passenger vessels providing overnight accommodations that anchor or moor on the state's marine water with the intent to allow passengers to embark or disembark.

Sec. 43.52.210. Rate of tax.

The tax imposed by AS 43.52.200 - 43.52.295 is levied at a rate of \$34.50 for a passenger for each voyage.

Sec. 43.52.220. Liability for payment of tax.

A passenger subject to the excise tax imposed by AS 43.52.200 - 43.52.295 is liable for the payment of the tax. The tax shall be collected from the passenger by the person who provides travel aboard a commercial vessel and shall be paid to the department in the manner and at the times required by the department by regulation.

Sec. 43.52.230. Disposition of receipts.

(a) The proceeds from the tax imposed under AS 43.52.200 - 43.52.295 shall be deposited in a special "commercial vessel passenger tax account" in the general fund. The legislature may appropriate money from this account for the purposes described in (b) and (d) of this section.

(b) For each voyage of a commercial passenger vessel, the commissioner shall identify the first seven ports of call in the state and the number of passengers subject to the tax imposed under AS 43.52.200 - 43.52.295 on board at each port of call. Subject to annual appropriation by the legislature, the commissioner shall distribute to each port of call \$5 for each passenger subject to the tax imposed under AS 43.52.200 - 43.52.295. If the port of call is a city located within a borough not otherwise unified with the borough, the commissioner shall distribute \$2.50 for each passenger to the city and \$2.50 to the borough. A city or borough that receives a payment under this subsection shall use the funds for port facilities, harbor infrastructure, and other services provided to the commercial passenger vessels and the passengers on board those vessels.

(c) *[Repealed, Sec. 12 ch 101 SLA 2010].*

(d) In addition to making an appropriation for the payments described in (b) of this section, the legislature may appropriate money from the commercial vessel passenger tax account to projects that (1) improve port and harbor infrastructure, (2) provide services to commercial passenger vessels and the passengers on board those vessels, or (3) improve

the safety and efficiency of the interstate and foreign commerce activities in which the vessels and the passengers on board those vessels are engaged.

(e) After October 31, 2010, and before November 1, 2015, a home rule or general law municipality that imposes and collects a tax on a passenger traveling on a commercial passenger vessel under a law enacted by the municipality before December 17, 2007, may not receive an appropriation under (d) of this section.

Sec. 43.52.240. Administration.

The department shall

(1) collect and enforce the collection of taxes due under AS 43.52.200 - 43.52.295 and penalties as provided in AS 43.05;

(2) adopt regulations necessary for the administration of AS 43.52.200 - 43.52.295; and

(3) subject to annual appropriation, distribute the payments described in AS 43.52.230 (b).

Sec. 43.52.250. Local levies. [Repealed, Sec. 12 ch 101 SLA 2010].

Repealed or Renumbered

Sec. 43.52.255. Tax reduction for local levies.

The tax imposed on a passenger by AS 43.52.200 - 43.52.295 shall be reduced by the total amount of a tax on the passenger traveling on a commercial passenger vessel that is imposed and collected by a home rule or general law municipality under a law enacted before December 17, 2007.

Sec. 43.52.260. Periodic report.

The Department of Commerce, Community, and Economic Development shall, every three years, prepare and submit to the governor, the legislature, and the public a report that

(1) addresses the projected needs of communities to safely and efficiently host passengers that pay taxes under AS 43.52.200 - 43.52.295; and

(2) summarizes the extent to which appropriations of the proceeds of the tax have been used to defray the cost of meeting the needs described in (1) of this section.

Sec. 43.52.295. Definitions.

In AS 43.52.200 - 43.52.295,

(1) "commercial passenger vessel" means a boat or vessel that is used in the common carriage of passengers in commerce; "commercial passenger vessel" does not include

(A) vessels with fewer than 250 berths or other overnight accommodations for passengers;

(B) noncommercial vessels, warships, and vessels operated by the state, the United States, or a foreign government;

(2) "marine water of the state" and "state marine water" have the meaning given to "waters" in AS 46.03.900, except that they include only marine waters;

(3) "passenger" means a person whom a common carrier has contracted to carry from one place to another;

(4) "voyage" means any trip or itinerary lasting more than 72 hours on the state's marine water.

Introduced by: Mayor
Date: 01/03/12
Shortened Hearing: 01/17/12
Action:
Vote:

**KENAI PENINSULA BOROUGH
ORDINANCE 2011-19-64**

**AN ORDINANCE APPROPRIATING SUPPLEMENTAL FUNDING OF \$25,276 TO
COVER SOFTWARE MAINTENANCE ON THE CAD SYSTEM INSTALLED AT THE
911 CALL CENTER**

1 **WHEREAS**, the borough's new 911 Computer Aided Dispatch (CAD) system went live in
2 September, 2011; and

3 **WHEREAS**, as part of the purchase and installation of the new 911 CAD system, the borough
4 entered into a maintenance agreement with New World System for maintenance
5 of the software; and

6 **WHEREAS**, the software agreement goes into effect January 1, 2012; and

7 **WHEREAS**, the annual cost of the maintenance agreement for calendar year 2012 is \$50,552,
8 of which \$25,276 is for the period January 1, 2012 to June, 30, 2012 (FY2012);
9 and

10 **WHEREAS**, a supplemental appropriation is needed to provide the necessary funding for
11 FY2012 as this expenditures was not included in the annual budget;

12 **NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI**
13 **PENINSULA BOROUGH:**

14 **SECTION 1.** That \$25,276 is appropriated from the borough's General Fund, fund balance to
15 account 100.94910.00000.50264, transfer to the 911 Special Revenue Fund and
16 is appropriated in the 911 Special Revenue Fund, account

1 264.11255.00000.43011 contract services, to cover the cost of the 911 CAD
2 software maintenance agreement for the period January 1, 2012 to June 30, 2012.

3 **SECTION 2.** That this ordinance takes effect immediately upon its enactment.

4 **ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS ***
5 **DAY OF * 2012.**

Gary Knopp, Assembly President

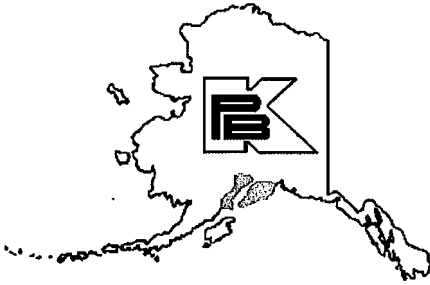
ATTEST:

Johni Blankenship, Borough Clerk

Yes:

No:

Absent:



KENAI PENINSULA BOROUGH

144 North Binkley Street • Soldotna, Alaska 99669-7520
Toll-free within the Borough: 1-800-478-4441
PHONE: (907) 262-4441 • FAX: (907) 262-1892
www.borough.kenai.ak.us

MIKE NAVARRE
BOROUGH MAYOR

MEMORANDUM

TO: Gary Knopp, Assembly President
Members, Kenai Peninsula Borough Assembly

THRU: Mike Navarre, Mayor *Mike Navarre*

FROM: Tammy Goggia, 911 Operations Manager *Tammy Goggia*
Craig Chapman, Director of Finance *C Chapman*

DATE: December 22, 2011

SUBJECT: Ordinance 2011-19-b4, appropriating \$25,276 for a maintenance agreement on the 911 CAD system software

The borough's new 911 Computer Aided Dispatch (CAD) system went live in September 2011. As part of the purchase agreement with New World System, the 911 software vendor, the borough entered into a software maintenance agreement which goes into effect January 1, 2012. The annual cost for this agreement is \$50,552, of which \$25,276 is for the period January 1, 2012 through June 30, 2012 (FY2012).

The 911 department did not budget for this expenditure and a supplemental appropriation is needed to provide the necessary funding in FY2012.

Shortened hearing is requested to adequately fund the agreement as soon as possible given that it is effective January 1, 2012.

FINANCE DEPARTMENT FUNDS VERIFIED	
Acct. No. <u>100,27900 FB</u>	
Amount <u>\$25,276 —</u>	
By: <u><i>CBW</i></u>	Date: <u>12/20/11</u>

Introduced by: Mayor
Date: 12/06/11
Action: Postponed Until 01/17/12
Date: 01/17/12
Action:
Vote:

**KENAI PENINSULA BOROUGH
RESOLUTION 2011-108**

**A RESOLUTION APPROVING A NEW SENIOR CLERK TYPIST CLASSIFIED
POSITION IN THE RIVER CENTER DEPARTMENT**

1 **WHEREAS**, on June 21, 2011, the assembly enacted Ordinance 2011-12 which amended KPB
2 21.18.025 to include all of the anadromous streams in the Kenai Peninsula
3 Borough in the anadromous stream habitat protection district excluding those
4 within the Seward-Bear Creek Flood Service Area; and

5 **WHEREAS**, this expansion of the habitat protection district was extensive as it added
6 approximately 2,317 stream miles to the 602 stream miles previously included in
7 the district; and

8 **WHEREAS**, implementation and enforcement of this expanded area will require the assistance
9 of additional personnel including one clerk typist in the river center department;

10 **NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE KENAI**
11 **PENINSULA BOROUGH:**

12 **SECTION 1.** That a new classified position in the river center department, a senior clerk typist
13 is hereby approved.

14 **SECTION 2.** That this resolution takes effect immediately upon its adoption.

1 **ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 6TH**
2 **DAY OF DECEMBER, 2011.**

Gary Knopp, Assembly President

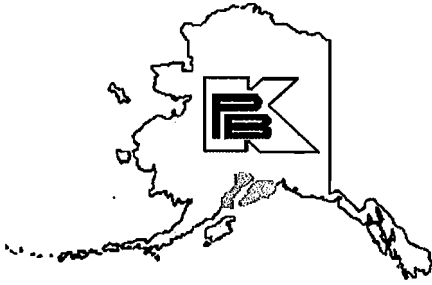
ATTEST:

Johni Blankenship, Borough Clerk

Yes:

No:

Absent:



KENAI PENINSULA BOROUGH

144 North Binkley Street • Soldotna, Alaska 99669-7520
Toll-free within the Borough: 1-800-478-4441
PHONE: (907) 262-4441 • **FAX:** (907) 262-1892
www.borough.kenai.ak.us

MIKE NAVARRE
BOROUGH MAYOR

MEMORANDUM

TO: Gary Knopp, Assembly President
Members, Kenai Peninsula Borough Assembly

THRU: Mike Navarre, Borough Mayor *MAD*
Mark Dixson, General Services Director *JD for MAD*

FROM: John Mohorcich, River Center Director *JMH*

DATE: November 23, 2011

SUBJECT: Resolution 2011-108, approving a new senior clerk typist position in the River Center Department

This resolution would approve a new classified position in the river center department. Additional personnel are needed by the river center to implement provisions governing the recently expanded anadromous stream habitat protection district. This district was expanded by ordinance 2011-12 to include almost all anadromous water bodies in the Kenai Peninsula Borough and will require this additional staff to properly implement. The additional staff is needed immediately to consistently apply this ordinance to the remaining anadromous streams of the borough.

Your approval of this position would be appreciated.

Introduced by: Haggerty, Murphy
Date: 01/17/12
Action:
Vote:

**KENAI PENINSULA BOROUGH
RESOLUTION 2012-003**

**A RESOLUTION IN OPPOSITION TO THE ISSUANCE OF A CERTIFICATE OF
NEED FOR AN AMBULATORY SURGERY CENTER IN KENAI, ALASKA**

1 **WHEREAS**, the Kenai Peninsula Borough owns Central Peninsula Hospital (“CPH”) and
2 contracts with Central Peninsula General Hospital, Inc. a nonprofit corporation to
3 operate this hospital on behalf of the borough; and

4 **WHEREAS**, Central Peninsula Hospital is located in Soldotna and serves the Central Kenai
5 Peninsula Hospital service area which includes all areas of the west side of the
6 Kenai Peninsula Borough from the Clam Gulch area north and including the
7 western side of Cook Inlet from Tuxedni Bay north; and

8 **WHEREAS**, Kahtnu Ventures, LLC, a for-profit venture, has submitted an application to the
9 State of Alaska dated November 18, 2011, seeking a certificate of need which
10 would authorize it to construct and operate a new ambulatory surgery center
11 (“ASC”) in the city of Kenai approximately 11 miles from CPH to provide
12 outpatient surgeries and procedures; and

13 **WHEREAS**, the proposed ASC will be approximately 8,365 square feet including one surgical
14 suite and a procedure room with the total cost of the project estimated at
15 \$9,076,834; and

16 **WHEREAS**, in reviewing the application the State of Alaska will among other things consider
17 the demonstrated need for the project by the population to be served, a
18 demonstration that the project including the applicant’s long range development
19 plans augment and integrate with community, regional, state and federal health
20 planning, and incorporates or reflects evidence-based planning and service

1 delivery, evidence of stakeholder participation in planning for the project,
2 demonstration that the applicant has assessed alternative methods of providing the
3 proposed services and that the proposed services are the most suitable approach, a
4 brief description of the anticipated impact on existing health care systems within
5 the project's service area and the anticipated impacts on the statewide healthcare
6 system, that the project's location is accessible to patients and clients and to
7 ancillary services; and

8 **WHEREAS,** public comments regarding the certificate of need application are due no later than
9 4:30 p.m. on January 23, 2012; and

10 **WHEREAS,** the proposed areas to be serviced by the ASC are entirely within the Central
11 Kenai Peninsula Hospital Service Area; and

12 **WHEREAS,** the ASC application at page 46 projects that it will have 1,800 cases per year in its
13 third year of operation with one operating room, yet CPH has handled an average
14 of 1,700 outpatient cases per year for the last 3 years with three operating rooms;
15 and

16 **WHEREAS,** outpatient surgery cases generate revenue for the hospital; and

17 **WHEREAS,** it appears highly likely that the proposed clinic will reduce revenues to the
18 hospital which will significantly impact other services provided by the hospital
19 and undermine the hospital's ability to be the full scale general hospital that the
20 community has repeatedly indicated it wishes to maintain; and

21 **WHEREAS,** some services provided by the hospital that are likely to be impacted by the ASC
22 as they are not self-sufficient include providing charity care, being open 7 days a
23 week 24 hours per day, and operating Serenity House, providing the sexual
24 assault response team-sexual assault nurse examiner (SART-SANE) program,

1 diabetes education services, community wellness programs, physical therapy and
2 other services; and

3 **WHEREAS**, Central Peninsula Hospital expects to open a fourth surgery room in May 2012,
4 subject to state approval in the wake of an objection filed by Kahtnu Ventures,
5 LLC., which will reduce the need for another surgery center in the area served by
6 the hospital;

7 **NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE KENAI**
8 **PENINSULA BOROUGH:**

9 **SECTION 1.** That the Kenai Peninsula Borough Assembly opposes the issuance of a Certificate
10 of Need to Kahtnu Ventures, LLC, for an ambulatory surgery center in Kenai
11 Alaska.

12 **SECTION 2.** That this resolution takes effect immediately upon its adoption.

13 **ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS**
14 **17TH DAY OF JANUARY, 2012.**

Gary Knopp, Assembly President

ATTEST:

Johni Blankenship, Borough Clerk

Yes:

No:

Absent:

KENAI PENINSULA BOROUGH

Kenai Peninsula Borough Assembly

144 North Binkley Street
Soldotna, AK 99669
Phone 907-714-2160
Fax 907-714-2388

Gary Knopp, Assembly President
Charlie Pierce, Vice President

MEMORANDUM

TO: Gary Knopp, Assembly President
Kenai Peninsula Borough Assembly Members

FROM: Mako Haggerty, Assembly Member *M.H. by J.B.*
Linda Murphy, Assembly Member *L.M.*

DATE: January 17, 2012

RE: Resolution 2012-003, Opposition to the Issuance of a Certificate of Need for an Ambulatory Surgery Center in Kenai, Alaska

Kahtnu Ventures has filed an application for a certificate of need (CON) to construct and operate a day surgery center in Kenai, proposing to offer what it terms an "efficient, patient-centered and lower cost option" for outpatient surgical services. The owners contend that there is a need for this facility based on current capacity at Central Peninsula Hospital (CPH) and that having such an outpatient surgery center on the peninsula will reduce the "out-migration" of outpatient surgical cases to Anchorage.

On the surface, this sounds like a great idea. However, it is our considered opinion that this logic is flawed and the addition of a new outpatient facility will do great harm to our existing publicly-owned hospital's financial position.

As we all know, Central Peninsula Hospital is required to provide services to any who needs them regardless of one's ability to pay. This is not true of a privately-owned and operated facility such as the one proposed by Kahtnu Ventures. They will be able to pick and choose their patients, taking only those with good insurance coverage or the ability to fully finance their treatment. Since outpatient services provided at CPH account for a sizeable portion of its profits, luring away those who are paying full fare will have the potential of either adversely affecting the provision of other needed services that do not pay their own way or forcing the service area to raise taxes to cover the potential loss of revenue.

The contention that an outpatient facility would reduce “out-migration” is pure conjecture. People opt to travel to Anchorage and beyond to access health care services for any number of reasons, and the presence of a new outpatient facility with the same physicians currently performing these procedures at CPH will not necessarily result in fewer patients traveling outside the area for care.

In addition, a fourth operating room is scheduled to go on-line at CPH in the very near future, expanding the hospital’s capacity and, therefore, making moot the contention that another facility is needed to fully serve the needs of the community.

For these reasons, we ask that you support Resolution 2012-003 in opposition to the issuance of a certificate of need for an ambulatory surgery center in Kenai, Alaska.

Introduced by: Mayor
Date: 01/17/12
Hearing: 02/14/12
Action:
Vote:

**KENAI PENINSULA BOROUGH
ORDINANCE 2011-19-66**

**AN ORDINANCE APPROPRIATING \$240,000 IN UNAPPROPRIATED INTEREST
INCOME FROM THE ENVIRONMENTAL PROTECTION FUND FOR ADDITIONAL
FUNDING OF THE SPRUCE BARK BEETLE PROGRAM**

1 **WHEREAS**, since 1998, the borough has received grant funding of almost \$20,000,000 for the
2 Spruce Bark Beetle (SBB) Program; and

3 **WHEREAS**, funding provided by the SBB program has been used for wildland mitigation,
4 hazardous tree removal, and other projects to minimize the devastation caused by
5 the spruce bark beetle; and

6 **WHEREAS**, based upon current projections, the grant funds received for the Spruce Bark
7 Beetle Program will be expended by the end of March 2012; and

8 **WHEREAS**, there are more projects the SBB program would like to complete prior to June 30,
9 2012; and

10 **WHEREAS**, since its inception, the SBB program has earned interest income of \$1,864,000 of
11 which \$1,276,000 has been previously appropriated; and

12 **WHEREAS**, the administration is requesting that \$240,000 of the unappropriated interest
13 income be appropriated allowing for these projects to be completed; and

14 **WHEREAS**, appropriation of the interest income will allow the SBB program to continue until
15 June 30, 2012 at which time the program will sunset unless additional funding is
16 received;

1 **NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI**
2 **PENINSULA BOROUGH:**

3 **SECTION 1.** That \$240,000 in interest income earned by the SBB program is appropriated
4 from the Environmental Protection Fund, fund balance to account no.
5 262.21320.12INT.49999 to provide funding for the SBB program through June
6 30, 2012.

7 **SECTION 2.** That this ordinance shall take effect immediately upon its enactment.

8 **ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS ***
9 **DAY OF * 2012.**

Gary Knopp, Assembly President

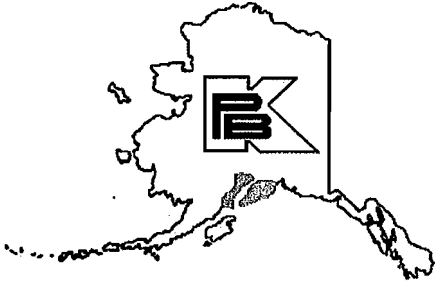
ATTEST:

Johni Blankenship, Borough Clerk

Yes:

No:

Absent:



KENAI PENINSULA BOROUGH

144 North Binkley Street • Soldotna, Alaska 99669-7520
Toll-free within the Borough: 1-800-478-4441
PHONE: (907) 262-4441 • FAX: (907) 262-1892
www.borough.kenai.ak.us

MIKE NAVARRE
BOROUGH MAYOR

MEMORANDUM

TO: Gary Knopp, Assembly President
Members, Kenai Peninsula Borough Assembly

THRU: Mike Navarre, Mayor *R.O. for MN*

FROM: Duane Bannock, SBB Program Manager *DBannock*
Craig Chapman, Director of Finance *CChapman*

DATE: January 5, 2012

SUBJECT: Ordinance 2011-19-bb, appropriating \$240,000 in unappropriated Spruce Bark Beetle interest income

Since 1998, the borough has received grant funding of almost \$20,000,000 for the Spruce Bark Beetle (SBB) Program. Interest income of \$1,864,000 has been received on those funds of which \$1,276,000 has been appropriated.

Based upon current projections, the grant funds received for the SBB program will be expended by the end of March 2012. There are more projects the SBB program would like to complete prior to end of the current fiscal year.

The administration is requesting that \$240,000 of the unappropriated interest income be appropriated, which would allow for these projects to be completed. This appropriation will allow the SBB program to continue until June 30, 2012, at which time the program will sunset unless additional funding is received.

FINANCE DEPARTMENT FUNDS VERIFIED	
Acct. No. <u>262.27910 FB</u>	
Amount <u>\$240,000.00</u>	
By: <u>CBW</u>	Date: <u>1/5/12</u>

Introduced by: Mayor
Date: 01/17/12
Hearing: 02/14/12
Action:
Vote:

**KENAI PENINSULA BOROUGH
ORDINANCE 2011-19-67**

**AN ORDINANCE APPROPRIATING \$980,430 FROM THE CENTRAL PENINSULA
HOSPITAL PLANT REPLACEMENT AND EXPANSION FUND FOR RENOVATING
THE CENTRAL PENINSULA HOSPITAL IMAGING DEPARTMENT**

1 **WHEREAS**, the Imaging Department at Central Peninsula Hospital ("CPH") was last
2 renovated in the 1980's; and

3 **WHEREAS**, the Imaging Department is the busiest department at CPH, providing imaging
4 services to more than 33,000 patients annually; and

5 **WHEREAS**, the Imaging Department's current configuration offers a waiting area that is
6 separated from the reception area in an alcove in the public corridor,
7 compromising patient privacy and customer service; and

8 **WHEREAS**, the Central Peninsula Hospital, Inc. ("CPH, Inc.") Board of Directors at its
9 December 15, 2011, board meeting approved the renovation of the CPH Imaging
10 Department at a cost of \$980,430.67; and

11 **WHEREAS**, funding for the renovation of the CPH Imaging Department would be paid from
12 the CPH Plant Replacement and Expansion fund; and

13 **WHEREAS**, the Central Kenai Peninsula Hospital Service Area Board, at its _____
14 _____ meeting recommended _____;

1 **NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI**
2 **PENINSULA BOROUGH:**

3 **SECTION 1.** That \$980,430 is appropriated from the CPGH Plant Replacement and Expansion
4 Fund to account 490.81111.12IMG.49999 for renovation of the CPH Imaging
5 Department.

6 **SECTION 2.** That this ordinance is takes effect immediately upon its enactment

7 **ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS ***
8 **DAY OF * 2012.**

Gary Knopp, Assembly President

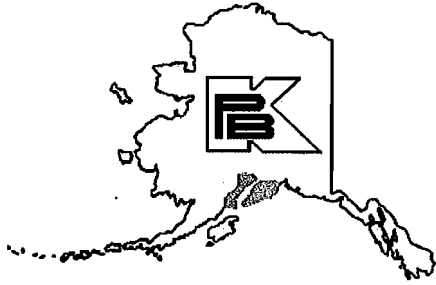
ATTEST:

Johni Blankenship, Borough Clerk

Yes:

No:

Absent:



KENAI PENINSULA BOROUGH

144 North Binkley Street • Soldotna, Alaska 99669-7520
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MIKE NAVARRE
BOROUGH MAYOR

MEMORANDUM

TO: Gary Knopp, Assembly President
Members, Kenai Peninsula Borough Assembly

THRU: Mike Navarre, Mayor *P.O. for MN*

FROM: Craig Chapmen, Director of Finance *C Chapman*

DATE: January 5, 2012

SUBJECT: Ordinance 2011-19-67, appropriating \$980,430 from the Central Peninsula General Hospital Plant Replacement and Expansion Fund for renovating the Central Peninsula Hospital imaging department

The imaging department is the busiest department at Central Peninsula Hospital ("CPH") providing imaging services to more than 33,000 patients annually.

The imaging department at CPH was last renovated in the 1980's. The current configuration offers a waiting area that is separated from the reception area in an alcove in the public corridor, compromising patient privacy and customer service.

The CPGH, Inc. Board of Directors at its December 15, 2011 board meeting approved the renovation of the CPH Imaging Department at a cost of \$980,430.67 from the CPH Plant Replacement and Expansion Fund.

FINANCE DEPARTMENT FUNDS VERIFIED	
Acct. No.	<u>490,20602</u>
Amount	<u>\$980,430.67</u>
By:	<u>CBW</u> Date: <u>1/5/12</u>



KENAI PENINSULA BOROUGH

Capital Projects Department
47140 East Poppy Lane • Soldotna, Alaska 99689
Toll-free within the Borough: 1-800-478-4441
PHONE: (907) 262-0657 • FAX: (907) 262-6090
www.borough.kenai.ak.us

DAVID R CAREY
BOROUGH MAYOR

October 5, 2011

Central Peninsula Hospital
Attention: Rich Davidson
250 Hospital Place
Soldotna, AK 99669

Mr. Davidson,

Capital Projects has reviewed the project request form, submitted by you on August 29, 2011 for the imaging department remodel. After consideration we believe that this project should be managed by KPB, Capital Projects Department.

CPH will need to provide an approved Resolution from the CPGH operating board along with a conceptual plan and cost estimate for this project. Once received KPB will present an Ordinance to the assembly for the appropriation of funds.

Capital Projects will be available to assist in the development of the scope and budget for this project.

If you have any questions or comments please feel free to contact John Hedges, Capital Projects Manager at 907-262-2037.

Sincerely,

Kevin Lyon
Capital Projects Director

cc: Mayor David Carey
Lease & Operating Agreement Administrator

Based on the conceptual design and cost estimate supplied to The Capital Projects Department by
KENAI PENINSULA BOROUGH CAPITAL PROJECTS DEPARTMENT

Project Name: CPH - Radiology Department Renovation **Date:** November 23, 2011

Description: This project is based on the Conceptual design and cost estimate supplied to The Capital projects Department by CPH on November 9, 2011

A/E Firm: Not selected at this time

Project Manager: John Hedges

Funding: CPGH Plant Replacement Fund

Account Number: N/A

PROJECT COST ESTIMATE

1. Construction Costs	\$662,486.00	
Subtotal	\$662,486.00	
Construction contingency 20%	\$132,497.20	
Total Construction Cost:		\$794,983.20
2. Other Project Costs		
A. Design and Development (includes CA)	\$95,397.98	
B. Contract Admin. & Const. Mngt. 7.5%	\$59,623.74	
C. Permits:	\$1,500.00	
Total Other Costs:	\$156,521.72	
Subtotal Project Cost:		\$951,504.92
Legal & Admin. Costs: 3.04%	\$28,925.75	
Total Project Cost:		\$980,430.67

RESOLUTION 2011-93

**A RESOLUTION APPROVING THE RENOVATION OF THE
CENTRAL PENINSULA HOSPITAL IMAGING DEPARTMENT, AND THE
TRANSFER OF FUNDS FROM THE PLANT REPLACEMENT AND EXPANSION FUND**

1. **WHEREAS**, the Kenai Peninsula Borough has entered into a Lease and Operating Agreement with Central Peninsula General Hospital, Inc. ("CPGH, Inc.") for the lease and operation of Central Peninsula Hospital and other Medical Facilities, and to provide other healthcare programs and services, on a nonprofit basis in order to ensure continued availability to the Service Area residents; and,
2. **WHEREAS**, the Imaging Department at Central Peninsula Hospital ("CPH") was last renovated in the 1980's, and CPGH, Inc. recognizes that the Imaging Department does not meet the current aesthetic standards of CPH after the substantial completion of the voter approved hospital expansion project; and
3. **WHEREAS**, the Imaging Department is the busiest department in CPH, providing imaging services to more than 33,000 patients annually, and the Imaging Department's surveys represent 55% of all patient satisfaction surveys completed for Outpatient Services; and,
4. **WHEREAS**, the Imaging Department's current configuration offers a waiting area that is separated from the reception area in an alcove in the public corridor, compromising patient privacy and customer service; and,
5. **WHEREAS**, properly renovated areas within CPH have consistently demonstrated significant improvement in patient satisfaction; and,
6. **WHEREAS**, the total projected cost for this renovation project is \$980,430.67, which represents 1/25 of the annual revenue for Imaging Services; and,
7. **WHEREAS**, sufficient funds are available in the Central Peninsula Hospital Plant, Replacement and Expansion Fund to pay for the total projected cost of the Imaging Department renovation project; and,
8. **WHEREAS**, under §13(b) of the Lease and Operating Agreement, any transfer in or out of the CPH Plant, Replacement and Expansion Fund shall be approved by the CPGH, Inc. Board; and,
9. **WHEREAS**, CPGH, Inc. Administration recommends that the CPGH, Inc. Board of Directors approve the Imaging Department renovation project, and approve the transfer of funds in the amount of \$980,430.67 out of the CPH Plant, Replacement and Expansion Fund to pay for this project; and,

10. WHEREAS, CPGH, Inc. has and shall abide by any and all conditions within §10(c) Purchasing Procedures of the Lease and Operating Agreement regarding contracts for the CPH Imaging Department renovation project; and,

11. WHEREAS, under KPB Code §5.04.11.A, a voter referendum is not required for capital improvement projects to CPH paid for by expenditures from the CPH Plant, Replacement and Expansion Fund; and,

12. WHEREAS, under §12(b)(iii) of the Lease and Operating Agreement, all capital improvement projects expected to cost in excess of \$250,000 using funds not previously appropriated for that purpose must be approved by the Borough Assembly after consideration by the Service Area Board;

NOW, THEREFORE, BE IT RESOLVED, BY THE BOARD OF DIRECTORS OF CENTRAL PENINSULA GENERAL HOSPITAL, INC., A NOT-FOR-PROFIT ALASKA CORPORATION, THAT:

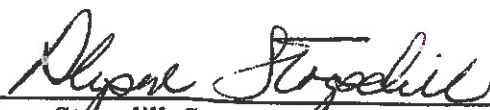
SECTION 1. The CPGH, Inc. Board of Directors approves the CPH Imaging Department renovation project at the total project cost of \$980,430.67, with the funds for payment to be from the CPH Plant, Replacement and Expansion Fund.

SECTION 2. The CPGH, Inc. Board of Directors approves the transfer of \$980,430.67 from the CPH Plant, Replacement and Expansion Fund for expenditures for the CPH Imaging Department renovation project, subject to consideration by the Service Area Board and to the approval of the Borough Assembly.

SECTION 3. This resolution becomes effective upon its adoption by the CPGH Inc. Board of Directors.

I certify that the above resolution was approved by vote of the Board of Directors of Central Peninsula General Hospital, Inc. at the 12/15/11 Board meeting.

DATED: 12/15/11


Alyson Stogsdill, Secretary/Treasurer
CPGH, Inc. Board of Directors

KENAI PENINSULA BOROUGH

Office of the Borough Clerk

144 North Binkley Street
Soldotna, AK 99669
Phone 907-714-2160
Fax 907-714-2388

Johni Blankenship, MMC
Borough Clerk

MEMORANDUM

To: Assembly President Gary Knopp
Members of the Assembly

Thru: Johni Blankenship, Borough Clerk *B*

From: Katie Ring, Borough Clerk Secretary *KJR*

Date: January 5, 2012

Re: Protest of Liquor Licenses Due to Unpaid Taxes

The Alaska Alcohol Beverage Control Board (ABC Board) issues liquor licenses for a 2-year period. At mid-term of the license (one year) the Kenai Peninsula Borough (KPB) Finance Department reviews the tax accounts of the licensed premise owners. If a tax account is found to be in arrears, the licensed premise owner is notified and given the opportunity to bring the account(s) current or make arrangements to do so prior to the Borough Assembly protesting the continued operation of the liquor license.

This review has been completed and the businesses so notified. As of today's date, the following businesses have failed to respond to the Borough's request for payment:

▶ K.G.B & Associates dba Clam Shell Lodge.....	Due	\$	4397.91
▶ Duane P. Lafluer dba Tustumena Lodge	Due	\$	5161.30
▶ Lands End Acquisition Corp dba Land's End	Due	\$	34990.07
▶ Marc Cooper dba Kachemak Bowl.....	Due	\$	12775.31
▶ River Place Investments Corp. dba Riverside House	Due	\$	2577.35

RECOMMENDATION:

Unless payment is received or other arrangements are made with the Finance Department prior to Tuesday night's meeting, per KPB 7.10.020, the Assembly shall formally protest the continued operation of these licensed establishments.

cc: Above - named applicants

Memorandum

To: Johni Blankenship, Borough Clerk
Thru:  Craig Chapman, Finance Director
From:  Lauri Lingafelt, Delinquent Accounts Specialist
Date: January 5, 2012
Subject: Liquor License Continuance 2012

The Finance Department has reviewed all relevant tax accounts related to the following businesses and found the licensees to be delinquent as follows:

License Location---Kenai Peninsula Borough
K.G.B. & Associates dba Clam Shell Lodge
1513 Stellar Dr (Location: 56611 Thomack Ave)
Kenai, AK 99611

Sales Tax #101878	\$4,397.91
Total Due	\$4,397.91

License Location---Kenai Peninsula Borough
Duane P. Lafleur dba Tustumena Lodge
PO Box 216 (Location: 58840 Sterling Hwy)
Kasilof, AK 99610

Sales Tax 039459	\$2,850.88
Real Property Tax #13725054 (premise)	\$2,310.42
Total Due	\$ 5,161.30

License Location---Homer
Lands End Acquisition Corp dba Land's End
4786 Homer Spit Rd (Location: Same)
Homer, AK 99603

Real Property Tax #18103450 (Premise)	\$34,990.07
Total Due	\$34,990.07

License Location—Homer
Marc Cooper dba Kachemak Bowl
672 East End Rd (same for location)
Homer, AK 99603

Sales Tax #030411	(Estimates)	\$11,765.85
Real_Property Tax #17730285		\$ 1,009.46
	Total Due	\$12,775.31

License Location—Soldotna
River Place Investments Corp. dba Riverside House
15800 SE Plaza St. 201
(Location: 44611 Sterling Hwy)
Clackamas, OR 97015

Sales Tax #040651	(Estimates)	\$2,577.35
	Total Due	\$2,577.35

Please be advised that the Finance Department recommends that the assembly cause a protest to be filed with 2011-12 continuance year of the businesses listed due to unpaid taxes.

Please forward us a copy of the assembly approval/objection letter for our records. Thank you for your consideration in this matter.

Kenai Peninsula Borough Assembly Committees 2011 – 2012

ASSEMBLY COMMITTEES

- **Finance Committee**
Bill Smith, Chair
Ray Tauriainen, Vice Chair
Gary Knopp

- **Lands Committee**
Sue McClure, Chair
Brent Johnson, Vice Chair
Ray Tauriainen

- **Policies & Procedures Committee**
Mako Haggerty, Chair
Charlie Pierce, Vice Chair
Linda Murphy

- **Legislative Committee**
Hal Smalley, Chair
Linda Murphy, Vice Chair
All Assembly Members

- **President Pro Tem**
Bill Smith

OTHER BOROUGH & SCHOOL DISTRICT COMMITTEES

- **KPB Emergency Planning**
[VACANT]
Gary Knopp, Alternate

- **Planning Commission Representative**
Ray Tauriainen
Bill Smith, Alternate

- **School Board**
Charlie Pierce
Brent Johnson, Alternate
Ray Tauriainen, Alternate

SERVICE AREA BOARD LIAISONS

- **Anchor Point Fire & EMS** - Mako Haggerty
- **Bear Creek Fire** - Sue McClure
- **CES/CPEMS** - Brent Johnson
- **Central Peninsula General Hospital**
Gary Knopp, Charlie Pierce, Linda Murphy
- **Kachemak Emergency Service Area**
Mako Haggerty
- **KPB Roads**
Gary Knopp, Charlie Pierce
- **Lowell Point Emergency SA** - Sue McClure
- **Nikiski Seniors** - Ray Tauriainen
- **Nikiski Fire** - Ray Tauriainen
- **North Peninsula Recreation** - Ray Tauriainen
- **Seward/Bear Creek Flood SA** - Sue McClure
- **South Peninsula Hospital** - Mako Haggerty,
Bill Smith

NON-BOROUGH COMMITTEES

- **Cook Inlet Aquaculture**
Brent Johnson
[VACANT], Alternate

- **Cook Inlet R.C.A.C.**
Grace Merkes, Term Expires March, 2014

- **Economic Development District**
Linda Murphy, Term Expires 12/31/13
Hal Smalley, Term Expires 12/31/14

- **Kenai Peninsula College Council**
Hal Smalley, Term Expires 06/30/14

- **Kenai River Special Management Area
Advisory Board**
Brent Johnson
[VACANT], Alternate

- **Prince William Sound R.C.A.C.**
Blake Johnson, Term Expires May, 2013