Kenai Peninsula Borough

Assembly Meeting Minutes

April 18, 2006 - 7:00 p.m. Regular Meeting - Soldotna, Alaska

CALL TO ORDER

A Regular Meeting of the Kenai Peninsula Borough Assembly was held on April 18, 2006, in the Borough Administration Building, Assembly Chambers, Soldotna, Alaska. President Long 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 Pastor Alan Humphries from the Soldotna Church of God.

There were present:

Ron Long, Presiding
Dan Chay
Paul Fischer
Deb Germano
Margaret Gilman (arrived at 7:08 p.m.)
Milli Martin
Grace Merkes
Pete Sprague
Gary Superman

comprising a quorum of the assembly.

Also in attendance were:

Tim Navarre, Chief of Staff
Colette Thompson, Borough Attorney
Sherry Biggs, Borough Clerk
Johni Blankenship, Deputy Clerk

COMMITTEE REPORTS

(07:03:41)

Assembly Member Superman said the Finance Committee met and discussed its lengthy agenda.

[Clerk's Note: During the Finance Committee, Assembly Member Sprague moved to challenge Chairman Long's decision from the April 4, 2006 work session, which stated; Assembly Member Gilman had a conflict and therefore would abstain from participating in the proposed Heritage Place acquisition work session and any further legislation regarding that acquisition that may come before the Assembly. Assembly Member Fischer spoke in opposition to the motion.

VOTE ON MOTION:

Yes:	*Chay, Germano, Merkes, Sprague, Superman*
No:	*Fischer, Martin*
Absent:	*Long*
Abstain:	*Gilman*
MOTION PASSED:	*5 Yes, 2 No, 1 Absent, 1 Abstention*

Assembly Member Gilman is now allowed to participate in the proposed Heritage Place acquisition.]

Assembly Member Martin stated the Lands Committee met and discussed its brief agenda.

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

Assembly Member Sprague stated the Legislative Committee met and discussed its agenda items.

President Long stated the Committee of the Whole met and moved into executive session along with Borough Clerk Sherry Biggs to conduct her annual performance review.

APPROVAL OF AGENDA AND CONSENT AGENDA *(07:20:51)*

MOTION TO APPROVE AGENDAS: Martin moved for the approval of the agenda and consent agenda.

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

The following items were moved from the consent agenda to the regular agenda:

- Resolution 2006-036: Establishing a Cost Allocation Plan (Mayor) (Two Hearings on 04/18/06 and 05/02/06) (Referred to Finance Committee)
- Resolution 2006-039: Authorizing the Mayor to Execute a Preliminary Conditional Asset Purchase Agreement to Acquire the Assets of Heritage Place (Mayor) (Referred to Policies and Procedures Committee)

  [Clerk's Note: A technical amendment was made to the preliminary conditional asset purchase agreement, an attachment to Resolution 2006-039.]

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

- April 4, 2006 Regular Assembly Meeting Minutes

- A Resolution Commending the Ninilchik High School Girls Basketball Team as District III/2A State Champions (Fischer)

- Mayor's Proclamation Declaring the month of April 2006 as "Traumatic Brain Injury Awareness Month"

- Resolution 2006-035: Authorizing the Purchase of Two (2) Tankers for Nikiski Fire Service Area (Mayor) (Referred to Finance Committee)

  [Clerk's Note: A technical amendment was made to Resolution 2006-035 as follows: Third whereas to read, "at its regularly scheduled meeting of April 12, 2006, the service area board recommended adoption."]

- Resolution 2006-037: In Support of Compiling an Oral History of the Exxon Valdez Oil Spill (Sprague) (Referred to Legislative Committee)

- Resolution 2006-038: Requesting the Administration to Implement the National Association of Counties Prescription Discount Card Program (Sprague) (Referred to Legislative Committee)

- Ordinance 2005-19-49: Appropriating Funding for Replacement of the Disinfection System at the North Peninsula Recreation Service Area Pool Facility (Mayor) (Hearing on 05/16/06) (Referred to Finance Committee)

- Ordinance 2006-17: Amending KPB 5.12.100 to Exempt Senior Housing in Ninilchik from Real Property Taxation (Fischer) (Hearing on 05/16/06) (Referred to Policies and Procedures Committee)

- Ordinance 2006-18: Amending KPB 2.60.035 to Increase the E911 Surcharge on Local Exchange Wireless Telephones from $.75 to $1.15 Per Month (Mayor) (Hearing on 05/16/06) (Referred to Finance Committee)

- Ordinance 2006-19: Appropriating Funds for Fiscal Year 2006-2007 (Mayor) (Hearings on 05/02/06 and 05/16/06) (Referred to Finance Committee)

- Ordinance 2006-20: Authorizing the Mayor to Enter into an Agreement to Purchase the Assets of Heritage Place, a 60-Bed Skilled Nursing Facility, Which Would Be Leased and Operated by Central Peninsula General Hospital, Inc. (Mayor) (Hearing on 05/16/06) (Referred to Finance Committee)

- Ordinance 2006-21: Amending KPB Chapter 5.12 to Require That a Senior Citizen or Disabled Veteran must Be Eligible for a Permanent Fund Dividend for the Same Year or for the Immediately Preceding Year in Order to Receive the First $150,000 Exemption from the Assessed Value of Real Property and That, in Order to Qualify for the Unlimited Exemption above $150,000, the Senior Citizen or Disabled Veteran must Have Been Absent from the Kenai Peninsula Borough for No More than 90 Days in the Calendar Year with Certain Exceptions and Have Met a Residency Requirement (Superman, Germano) (Hearing on 05/16/06) (Referred to Policies and Procedures Committee)

President Long called for public comment on consent agenda items.

The following people spoke in support of Ordinance 2006-20:

Stan Steadman, 252 W. Marydale Avenue, Soldotna
Jane Stein, PO Box 1612, Soldotna
John Nelson, PO Box 4267, Soldotna

Preston Williams, PO Box 3233, Kenai, addressed the assembly in opposition to Ordinances 2006-20 and Ordinance 2006-21 as written.

Sherman C. (Red) Smith, PO Box 770, Cooper Landing, addressed the assembly regarding borough spending.

Ed Martin Sr., PO Box 521, Cooper Landing, addressed the assembly regarding borough spending and taxation.

Rocky Frank, PO Box 572, Anchor Point, addressed the assembly regarding senior tax exemptions and Ordinance 2006-21.

Earl Miller, 33526 Johnson Drive, Soldotna, addressed the assembly regarding senior tax exemptions and Ordinance 2006-21.

Vicki Pate, PO Box 7447, Nikiski, addressed the assembly in opposition to Ordinance 2006-20.

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

AGENDAS APPROVED AS AMENDED: Unanimous.

(08:00:54)

COMMENDING RESOLUTIONS AND PROCLAMATIONS

Assembly Member Fischer read aloud a resolution commending the Ninilchik High School Girls Basketball Team as District III/2A State Champions.

Bill Popp presented a mayoral proclamation declaring the month of April 2006 as "Traumatic Brain Injury Awareness Month" to Richard Warrington and Jim Shine, Sr.

(08:07:38)

PRESENTATIONS WITH PRIOR NOTICE

Jim Shine, Sr., Alaska Traumatic Brain Injury Advisory Board Chair, introduced the board members and gave an overview of the board's mission and purpose.

Eugene Boblett, 36406 Hidden Forest Circle, Soldotna, addressed the assembly regarding religious rights and charitable tax exemptions.

Mayor Williams addressed the assembly via teleconference regarding the Fiscal Year 2007 proposed borough budget.

Finance Director Craig Chapman presented the Fiscal Year 2007 proposed borough budget.

PUBLIC COMMENTS ON ITEMS NOT APPEARING ON THE AGENDA

President Long called for public comment with none being offered.

REPORTS OF COMMISSIONS AND COUNCILS

Assembly Member Merkes reported on the April 2006, Cook Inlet Regional Citizens Advisory Council Board meeting.

MAYOR'S REPORT

(09:19:30)

1. Agreements and Contracts

   a. Spruce Bark Beetle Mitigation Program:

      - Cooperative Agreement Between KPB and Homer Electric Association for Utility Hazard Tree Removal Between Tutka Bay and Sadie Cove, Alaska

   b. Approval of Contract with Integrity Surveys for ROW Platting Portion of Jones Road off Gas Well in K-Beach Area

   c. Approval of Waste Disposal Agreement Between KPB and U.S. Navy (North Pacific Maritime Agents) for Offloading Solid Waste in the Ports of Seward and/or Homer

   d. Approval to Waive Formal Bidding Process Procedures for Flooring Replacement in Swimming Pool and Pool Locker Rooms at Kenai Central High School

e. Approval to Waive Formal Bidding Process Procedures and Award Contract to Aeromap U.S. and Sub Consultant McLane Consulting Group for Aerial Photography and Surveying at Central Peninsula Landfill

f. Approval of Bid Award to Mike Tauriainen P.E. Consulting Engineers for Professional Design Services, Kenai Central High School Asphalt Replacement Project

g. Approval of Lease Agreement Between KPB and Seaview Community Services for KPB Seward Annex Office Space

2. Other

a. Budget Revisions – March 2006

b. Revenue-Expenditure Report – March 2006

(09:20:02)

ITEMS NOT COMPLETED FROM PRIOR AGENDA

Ordinance 2005-19-47: Appropriating $1,000,000 From the Borough's General Fund Balance to Reimburse the CES Capital Project Fund for its Contribution for Construction of an Emergency Response Center (Mayor) (Hearing on 05/02/06) (Referred to Finance Committee)

[Clerk's Note: There was a motion to introduce and set for public hearing on the floor from the April 4, 2006 Assembly Meeting.]

President Long called for public comment, with none being offered.

MOTION: (Secondary) Fischer moved to change the public hearing date from May 2, 2006 to May 16, 2006.

SECONDARY MOTION PASSED: Unanimous.

Assembly Members Sprague and Fischer spoke in opposition to introduction of Ordinance 2005-19-47.

Assembly Members Martin, Chay, Germano and Gilman spoke in support of introduction of Ordinance 2005-19-47.

President Long passed the gavel to Vice President Sprague and stated his concerns regarding introduction of Ordinance 2005-19-47. Vice President Sprague returned the gavel to President Long.

VOTE ON MOTION TO INTRODUCE AND SET FOR PUBLIC HEARING:

Yes:	Chay, Germano, Gilman, Martin, Merkes, Superman, Long
No:	Fischer, Sprague
Absent:	None
MOTION TO INTRODUCE AND SET FOR PUBLIC HEARING PASSED:	7 Yes, 2 No, 0 Absent

(09:50:00)

PUBLIC HEARINGS ON ORDINANCES

Ordinance 2005-19-45: Appropriating $50,000 from Kachemak Emergency Service Area (KESA) Capital Projects Fund Balance for Purchase of a Water Tender (Mayor) (Referred to Finance Committee)

[Clerk's Note: A teleconference site was established at the Homer Annex Office to receive public testimony.]

MOTION: Superman moved to enact Ordinance 2005-19-45.

Assembly Member Superman stated the ordinance would allow for an additional appropriation which when combined with a $75,000 state grant would allow the service area to purchase the needed tanker.

President Long opened the public comment period.

The following person spoke in support of Ordinance 2005-19-45:

Patrick Johnson, 54540 East End Road, Homer

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

MOTION TO AMEND: Superman moved to amend Ordinance 2005-19-45 as follows:

Final whereas to read, " the KESA service area board at its March 23, 2006 board meeting recommended enactment."

MOTION TO AMEND PASSED: Unanimous.

VOTE ON MOTION TO ENACT AS AMENDED:

Yes:	Chay, Fischer, Germano, Gilman, Martin, Merkes, Sprague, Superman, Long
No:	None
Absent:	None
MOTION TO ENACT AS AMENDED PASSED:	9 Yes, 0 No, 0 Absent

MOTION:	Sprague moved to suspend the rules and extend the legislative deadline by one half hour until Midnight.
MOTION PASSED:	Unanimous.
MOTION:	Sprague moved to suspend the rules and address Resolution 2006-025 and Resolution 2006-039 as the next items of business.
MOTION PASSED:	Unanimous.

(09:56:11)

UNFINISHED BUSINESS

Resolution 2006-025: Determining the Amount to be Provided from Local Sources for School Purposes During Fiscal Year 2007 (Mayor) (Referred to Finance Committee)

[Clerk's Note: There was a motion to adopt on the floor from the April 4, 2006 meeting.]

President Long opened the public comment period.

The following people spoke in support of amending Resolution 2005-025 to fully fund the school district:

Melody Douglas, P.O. Box 3477, Soldotna, Chief Financial Officer, KPBSD
Ruby Kime, 64955 Alice Avenue, Ninilchik
Debra Mullins, 53630 Redoubt Drive, Nikiski, KPB Board of Education President
John Pothast, 32328 Dawn Drive, Soldotna
Todd Severson, 254 West Katmai, Soldotna
Ann Bayes, PO Box 575, Anchor Point
Karl Kirsher, 375 W. Riverview, Soldotna
Keegan Birchfield, 325 On Par Lane, Soldotna

The following person spoke in opposition to amending Resolution 2006-025 to fully fund the school district:

Earl Miller, 33526 Johnsons Dr., Soldotna

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

MOTION TO AMEND: Martin moved to amend Resolution 2006-025 as follows:

Final whereas to read, "the Borough is proposing that school funding from local source for FY2007 by $[35,467,015] 36,761,137 and increase of $[482,419]1,706,541 from FY2006;

Section 1 to read, "that $[35,467,015] 36,761,137 shall be made available from local sources to fund school district operations for Fiscal Year 2007, as follows:

A. Local Effort	$[27,587,592] 28,881,714
B. Borough Maintenance	$5,684,563
C. School District Utilities	$55,430
D. Insurance	$2,011,056
E. Audit	$26,500
F. Custodial Services	$101,874

TOTAL LOCAL FUNDING PER AS 14.17.410 [$35,467,015] 36,761,137

Assembly Members Superman, Fischer and Merkes spoke in opposition to the amendment.

Assembly Member Sprague, Gilman, Martin, Chay and Germano spoke in support of the amendment.

President Long passed the gavel to Vice President Sprague and spoke in support of the amendment. Vice President Sprague returned the gavel to President Long.

MOTION TO POSTPONE: Fischer moved to postpone Resolution 2006-025 until the May 2, 2006 meeting.

Assembly Member Gilman spoke in opposition to postponement.

VOTE ON MOTION TO POSTPONE:	
Yes:	Fischer, Merkes, Superman
No:	Chay, Germano, Gilman, Martin, Sprague, Long
Absent:	None
MOTION TO POSTPONE FAILED:	3 Yes, 6 No, 0 Absent

Assembly Members Fischer and Superman spoke in opposition to the amendment.

Assembly Members Martin and Germano spoke in support of the amendment.

VOTE ON MOTION TO AMEND:

Yes:	Chay, Germano, Gilman, Martin, Sprague, Long
No:	Fischer, Merkes, Superman
Absent:	None
MOTION TO AMEND PASSED:	6 Yes, 3 No, 0 Absent

VOTE ON MOTION TO ADOPT AS AMENDED:

Yes:	Chay, Germano, Gilman, Martin, Sprague, Long
No:	Fisher, Merkes, Superman
Absent:	None
MOTION TO ADOPT AS AMENDED PASSED:	6 Yes, 3 No, 0 Absent

(11:17: 00)

NEW BUSINESS

Resolution 2006-039: Authorizing the Mayor to Execute a Preliminary Conditional Asset Purchase Agreement to Acquire the Assets of Heritage Place (Mayor) (Referred to Policies and Procedures Committee)

[Clerk's Note: A technical amendment was made to Resolution 2006-039 during approval of the agenda as follows: The preliminary conditional asset purchase agreement referenced in Section 1, was replace with an updated version. The only change in the text was the following underlined addition to the second sentence of the paragraph numbered "1" to read, "At this time, subject to the parties' ability to negotiate an Agreement, the parties agree that at the Closing,... "]

MOTION: Chay moved to adopt Resolution 2006-039.

President Long opened the public comment period, with none being offered.

Borough Attorney Colette Thompson gave a brief overview on the preliminary conditional asset purchase agreement which would allow all parties to begin confidential financial review, plant inspections and preliminary negotiations. Assembly approval of the final agreement would be required by Ordinance 2006-20.

Assembly Members Chay and Sprague spoke in support of Resolution 2006-039.

Assembly Members Fischer, Martin and Superman stated concerns regarding Resolution 2006-039.

VOTE ON MOTION:

Yes:	Chay, Fischer, Germano, Gilman, Martin, Merkes, Sprague, Superman, Long
No:	None
Absent:	None
MOTION TO ADOPT PASSED:	9 Yes, 0 No, 0 Absent

MOTION:	Fischer moved to suspend the rules and address Ordinance 2006-13 as the next item of business.
MOTION PASSED:	Unanimous.
MOTION	Merkes moved to suspend the rules and address Ordinance 2006-10 as the next item of business after Ordinance 2006-13.

VOTE ON MOTION:

Yes:	Fischer, Gilman, Merkes, Martin
No:	Chay, Germano, Sprague, Superman, Long
Absent:	None
MOTION FAILED:	4 Yes, 5 No, 0 Absent

(11:38:00)

<u>Ordinance 2006-13</u>: Amending the Tax Code to Increase the Motor Vehicle Tax (Mayor) (First of Two Hearings) (Referred to Finance Committee)

MOTION: Superman moved to enact Ordinance 2006-13.

Assembly Member Superman stated the ordinance would increase the tax on motor vehicles in order to be consistent with those of other municipalities and boroughs within the state.

President Long opened the public comment period.

Duane Bannock, Division of Motor Vehicles Director, 94540 Flintlock, Anchorage, summarized the Alaska motor vehicle tax program.

The following people spoke in opposition to Ordinance 2006-13:

Preston Williams, PO Box 4233, Kenai
Jim Doyle, PO Box 582, Kenai
Earl Miller, 33526 Johnsons Dr., Soldotna

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

MOTION TO POSTPONE:	Superman moved to postponed Ordinance 2006-13 until its next scheduled hearing on May 2, 2006.
VOTE ON MOTION TO POSTPONE:	
Yes:	Chay, Fischer, Germano, Gilman, Martin, Merkes, Sprague, Superman, Long
No:	None
Absent:	None
MOTION TO POSTPONE PASSED:	9 Yes, 0 No, 0 Absent

(11:56:47)

MOTION:	Germano moved to suspend the rules and address Ordinance 2005-19-48 as the next item of business.
MOTION PASSED:	Unanimous.

<u>Ordinance 2005-19-48</u>: Transferring $209,860 from an Alternatively Funded Roof Replacement Project to the Eight School Arsenic Treatment Project (Mayor) (Referred to Finance Committee)

[Clerk's Note: A technical amendment was made to Ordinance 2005-19-48 as follows: The underline was removed from the word "completed" in the 7th Whereas.]

MOTION:	Superman moved to enact Ordinance 2005-19-48.

Assembly Member Superman stated the ordinance would allow for funding to complete the arsenic treatment project.

President Long opened the public comment period.

Ruby Kime, 64955 Alice Avenue, Ninilchik, AK spoke in opposition to Ordinance 2005-19-48.

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

VOTE ON MOTION TO ENACT:	
Yes:	Chay, Fischer, Germano, Gilman, Martin, Merkes, Sprague, Superman, Long
No:	None
Absent:	None
MOTION TO ENACT PASSED:	9 Yes, 0 No, 0 Absent

[Clerk's Note: Having reached the Assembly's legislative deadline at 11:59 p.m., all discussion ceased. Ordinance 2005-19-46, Ordinance 2006-01 (Martin) Substitute, Ordinance 2006-09, Ordinance 2006-10, Ordinance 2006-11 and Resolution 2006-36 will be addressed at the May 2, 2006 meeting in Seward.]

ASSEMBLY MEETING AND HEARING ANNOUNCEMENTS

- The next meeting of the Kenai Peninsula Borough Assembly was scheduled for May 2, 2006, at 7:00 p.m. in the Seward City Council Chambers at Seward City Hall, Seward, Alaska.

ADJOURNMENT

11:59:59)

Having reached the legislative deadline, President Long adjourned the meeting at 11:59 p.m.

I certify the above represents accurate minutes of the Kenai Peninsula Borough Assembly meeting of April 18, 2006.

_____
Sherry Biggs, Borough Clerk

Approved by Assembly:_____