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# Kenai Peninsula Borough

## *Assembly Meeting Minutes*

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April 17, 2012

Regular Meeting - Seward, Alaska

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### **CALL TO ORDER**

A Regular Meeting of the Kenai Peninsula Borough Assembly was held on April 17, 2012, in the Seward City Hall Council Chambers, Seward, 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 Ron Nitz from the Resurrection Lutheran Church.

### **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. *(07:01:06)*

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 item.

### **MOTION:**

Murphy moved to authorize our NACo Representative, Assembly Member Hal Smalley to attend the Western Interstate

Region (WIR) Conference in Sante Fe, New Mexico May 14-19, 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. (07:23:44)

*[Clerk's Note: President Knopp passed the gavel to Vice President Pierce and declared a conflict with Resolution 2012-029 and Resolution 2012-031 as he was the owner of G&H Construction, he noted that had bid on the projects outlined in Resolution 2012-028 and Resolution 2012-030. Vice President Pierce ruled a conflict did exist. President Knopp abstained from discussion and voting on Resolution 2012-029 and Resolution 2012-031.]*

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

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

- April 3, 2012 Regular Assembly Meeting Minutes
- Resolution 2012-028: Authorizing Road Service Area Capital Improvement Project: Georgine Lake Road #N5GEO Contract Award and Allocation (Mayor) (Referred to Finance Committee)
- Resolution 2012-029: Authorizing Road Service Area Capital Improvement Project: Wanda Drive and Range View Court #N5WAN Contract Award and Allocation (Mayor) (Referred to Finance Committee)
- Resolution 2012-030: Authorizing Road Service Area Capital Improvement Project: Ramona Road and Sondra Road #N5RAM Contract Award and Allocation (Mayor) (Referred to Finance Committee)
- Resolution 2012-031: Authorizing Road Service Area Capital Improvement Project: Gemstone Street #N2GEM Contract Award and Allocation (Mayor) (Referred to Finance Committee)
- Resolution 2012-032: Accepting Communication Equipment from the State of Alaska Division of Homeland Security and Emergency Management on Behalf of Central Emergency Services (Mayor) (Referred to Policies and Procedures Committee)
- Ordinance 2011-19-82: Appropriating Supplemental Funding to the Borough's Health Insurance Fund to Cover Estimated Cost to be Incurred to the Borough's Health Care Plan for FY2012 (Mayor) (Hearing on 05/15/12) (Referred to Finance Committee)

- Ordinance 2011-19-83: Appropriating \$26,145.80 from Fund Balance for the Purchase of Supplies and Equipment by the Lowell Point Emergency Service Area (Mayor, McClure) (Shortened Hearing on 05/01/12) (Referred to Finance Committee)
- Ordinance 2011-19-84: Appropriating \$40,000 from the General Government Capital Project Fund to Provide Additional Funding for Remodeling of the Legal and Finance Departments and \$40,000 for ADA Upgrades at the Borough Administration Building (Mayor) (Shortened Hearing on 05/01/12) (Referred to Finance Committee)
- Ordinance 2011-19-85: Appropriating \$45,058.74 in Donations for the Nikiski Community Playground Project (Mayor) (Hearing on 05/15/12) (Referred to Finance Committee)
- Ordinance 2012-11: Authorizing the Acceptance of the FY2013 Late-Filed Senior Citizen Grant Application for the Seldovia Senior Citizen Program (Mayor) (Shortened Hearing on 05/01/12) (Referred to Finance Committee)
- Ordinance 2012-12: Reducing Disposal Fees for AIMM Technologies, Inc. for up to 3,000 tons of Special Waste (Mayor) (Hearing on 05/15/12) (Referred to Policies and Procedures Committee)
- Petition to Vacate Brant Drive, a 25-Foot Public Right-of-Way Easement within Tract A-100-E1, as Recorded within Book 17 Page 256 Homer Recording District; also Shown on Brant Subdivision (Plat HM81-14); within Section 2, Township 6 South, Range 14 West; Seward Meridian, Alaska and Within the Kenai Peninsula Borough; KPB File 2012-029; Location: Off Diamond Ridge Road, Homer Area (Referred to Lands Committee)

*[Clerk's Note: The Planning Commission approved the referenced vacation by unanimous consent during its regularly scheduled March 26, 2012 meeting.]*

- Petition to Vacate the West 3-Feet of the 33-Foot Waxwing Way Right-of-Way Adjacent to Tract 1, Veil O'Mist Subdivision No. 3 Dedicated by (Plat KN 74-66); within Section 6, Township 5 North, Range 8 West, Seward Meridian, Alaska and within the Kenai Peninsula Borough AND Vacate the West 3-Feet of the 33-Foot Section Line Easement Underlying the Above Proposed Right-of-Way Vacation Adjacent to Tract 1 of Veil O'Mist Subdivision No. 3 (Plat KN 74-66); All Within Section 5, Township 5 North, Range 8 West, Seward Meridian, Alaska; and within the Kenai Peninsula Borough; KPB Files 2012-023 and 2012-024; Location: On Waxwing Way in Sterling (Referred to Lands Committee)

*[Clerk's Note: The Planning Commission approved the referenced vacation by unanimous consent during its regularly scheduled March 26, 2012 meeting.]*

- Approving the Application for Restaurant Designation Permit Filed by Alaska Roadhouse Company dba Alaska Roadhouse Bar and Grill (Referred to Finance Committee)
- Authorizing an Application of Transfer, Ownership and Relocation of Liquor License Filed by Wes Sherrill dba Moose Pass Inn (Referred to Finance Committee)

Vice President Pierce called for public comment with none being offered.

AGENDA APPROVED AS AMENDED: Without objection.

*[Clerk's Note: Vice President Pierce returned the gavel to President Knopp.]*

**COMMENDING RESOLUTIONS AND PROCLAMATIONS** - None.

**PRESENTATIONS WITH PRIOR NOTICE** - None.

**PUBLIC COMMENTS ON ITEMS NOT APPEARING ON THE AGENDA**

(07:30:56)

President Knopp called for public comment.

**Jenny Olendorff**, PO Box 3918, Soldotna, addressed the Assembly regarding the Tobacco Intervention Network educating students in Kenai Peninsula Borough schools.

**Marine Sheehan**, Bayview Apartment, Seward, addressed the Assembly regarding teens smoking.

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

**MAYOR'S REPORT**

(07:37:53)

1. Assembly Requests/Responses - None.
2. Agreements and Contracts
  - a. Authorization to Award Contract for Nikolaevsk Fire Station Standby Generator to Cook Inlet Lighting
  - b. Authorization to Award Contract for the Purchase of a Compact Track Loader to Craig Taylor Equipment
  - c. Authorization to Award Contract for Hazardous Waste Collection Contract Services to Emerald Alaska, Inc.
  - d. Authorization to Award Contract for Central Peninsula Hospital Radiation Oncology Center Professional Design Services to Soderstrom Architectures, Ltd.
3. Other
  - a. Litigation Status Report
  - b. Spruce Bark Beetle Program Monthly Status Report March, 2012

ITEMS NOT COMPLETED FROM PRIOR AGENDA - None.

**PUBLIC HEARING ON ORDINANCES**

(07:42:14)

**Ordinance 2011-19-79: Appropriating Commercial Passenger Vessel Tax Proceeds Received from the State of Alaska in the Amount of \$357,552.50 and Allocating \$324,865 to the City of Seward and \$32,687.50 to the City of Homer (Mayor) (Referred to Finance Committee)**

MOTION: Smith moved to enact Ordinance 2011-19-79.

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

(07:44:16)

**Ordinance 2011-19-81: Accepting and Appropriating a Grant in the amount of \$230,220 from the State of Alaska Division of Homeland Security and Emergency Management to Complete a Local Hazard Mitigation Plan Annex in the Seward Bear Creek Flood Service Area (Mayor) (Referred to Finance Committee)**

MOTION: Smith moved to enact Ordinance 2011-19-81.

President Knopp called for public comment with none being offered.

MOTION: Smith moved to amend Ordinance 2011-19-81 as follows:

The sixth whereas to read, “at its meeting on February 13, 2012 the SBCFSA Board of Directors’ [RECOMMENDED] motion to approve this ordinance failed;”

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

**Ordinance 2012-06: Amending KPB 21.18.081, 21.18.100 and 21.18.140 to Permit Certain Structures in Tidally Inundated Areas, and Conditionally Permit Certain Structures Within the Habitat Protection District and Adding Definitions (Smith, Haggerty) (Referred to Policies and Procedures Committee)**

*[Clerk’s Note: Motion to enact Ordinance 2012-06 was on the floor from the April 3, 2012 meeting.]*

President Knopp called for public comment.

The following person spoke in support of the amendments to Ordinance 2012-06.

**Tim Dillon**, Seldovia City Manager

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

MOTION:

Haggerty moved to amend Ordinance 2012-06 as follows:

Title to read, “An Ordinance Amending KPB 21.18.025(B) 21.18.081, [21.18.100], and 21.18.140 to Permit Certain Structures in Tidally Inundated Areas, and Conditionally Permit Certain Structures within the Habitat Protection District and Adding Definitions”

Insert a new Section 1 to read, “That KPB 21.18.025 (B) is hereby amended as follows:

B. In addition to the water bodies listed in 21.18.025(A), all anadromous waterbodies within the municipal boundaries of the Kenai Peninsula Borough which are listed in the "Atlas and Catalogue of Waters Important for Spawning, Rearing, or Migration of Anadromous Fish" as periodically updated and published by the Alaska Department of Fish and Game[, EXCLUDING ALL PORTIONS OF WATERWAYS FOUND WITHIN THE SEWARD-BEAR CREEK FLOOD SERVICE AREA,] are subject to this chapter as of January 1, 2012, excluding the following:

1. All portions of waterways found within the Seward-Bear Creek Flood Service Area are

exempt from KPB 21.18,

2. Braided Channels, Tide Dominated Deltas, Estuaries and Lagoons which are primarily seawater and are identified as anadromous in the State of Alaska Atlas and Catalogue of Waters Important for Spawning, Rearing, or Migration of Anadromous Fish are exempt from KPB 21.18.”

Renumber existing section accordingly.

MOTION TO AMEND PASSED:

Unanimous.

MOTION:

Haggerty moved to amend Ordinance 2012-06 as follows:

Newly renumbered Section 2 to read, “That KPB 21.18.081(B) is hereby amended by adding a new provision as follows:

...

10. A principal structure or an addition to a principal structure may be approved within the habitat protection district provided all the following standards are met:

a. The parcel boundaries were defined prior to January 1, 2012.

b. The parcel [IS SUBJECT TO A CITY BUILDING CODE AND] is served by a public sewer system or sewage holding tank or septic system, provided the holding tank or septic system are located entirely outside the habitat protection district.

c. The parcel has an area of .3 acres or less and less than 4,000 square feet of total developed impervious coverage.

d. The parcel has less than 4,000 square feet of suitable development area outside the habitat protection district.

[D] e. On the portion of the parcel within the habitat protection district, the total impervious coverage may not exceed 50% of the area able to sustain native vegetation, or [5,000] 3,000 square feet of area able to sustain native vegetation, whichever is less.

[E] f. The standard for development is to first utilize suitable parcel areas outside the habitat protection district [AS A PREFERRED ALTERNATIVE TO DEVELOPMENT WITHIN A HABITAT PROTECTION DISTRICT.] Within the habitat protection district, it is preferred to minimize impact by preserving the nearshore areas which may sustain native vegetation.”

MOTION TO AMEND PASSED:

Unanimous.

MOTION:

Haggerty moved to amend Ordinance 2012-06 as follows:

Delete newly renumbered Section 3 to read, “[THAT KPB 21.18.100 IS HEREBY AMENDED BY ADDING A NEW SECTION E. AS FOLLOWS:

...

E. BUILDING PERMITS ISSUED BY A CITY FOR AREAS SUBJECT TO TIDAL INUNDATION, BETWEEN MEAN HIGH WATER AND MEAN HIGHER HIGH WATER, WILL CONSTITUTE A DETERMINATION THAT THE REQUIREMENTS OF KPB 21.18 ARE SATISFIED AND THE PROJECT IS EXEMPT FROM KPB 21.18 APPLICATION.]”

Renumber remaining sections accordingly.

MOTION TO AMEND PASSED:

Unanimous.

MOTION:

Haggerty moved to amend Ordinance 2012-06 as follows:

Insert the following additional definitions to newly renumbered Section 3, KPB 21.18.140:

AF. "Mile Zero" The downstream beginning



point of the anadromous waters identified in 21.18, and the riparian zone defined as the habitat protection district. On riverine systems subject to tidal inundation, Mile Zero begins at the elevation of mean high tide, where not otherwise designated by KPB code or prior designations.

AG. "Estuary" means a semi-enclosed coastal body of water with a free connection to the sea and in which seawater is measurably diluted with freshwater derived from land drainage.

AH. "Braided Channels" means the intertwined branches or secondary channels of a river or stream and characterized by the separation and rejoining of two or more channels separated by bars or islands.

AI. "Lagoon" means relatively shallow bodies of water, mostly-enclosed, with an oceanic source, separated by a low-lying swatch of land, such as a spit or barrier island. This oceanic source may be continual or episodic, such as storm-induced overwash, and generally has a different salinity as a result of its restricted access.

AJ. "Tide Dominated Delta" means a river delta subject to tidal inundation as well as tidal and storm erosion which may be mainly submarine with prominent bars or ridges.

MOTION TO AMEND PASSED:

Unanimous.

MOTION TO POSTPONE:

Haggerty moved to postpone Ordinance 2012-06 until May 15, 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

**Ordinance 2012-07: Amending KPB Titles 2 Administration, 4 Elections and 16 Service Areas to Provide that All Kenai Peninsula Borough Service Area Boards are Appointed Instead of Elected (Murphy) (Final Hearing 05/01/12) (Referred to Policies and Procedures Committee)**

*[Clerk's Note: Motion to enact Ordinance 2012-07 was on the floor from the April 3, 2012 meeting.]*

President Knopp called for public comment with none being offered.

MOTION TO POSTPONED:	Pierce moved to postpone Ordinance 2012-07 until May 1, 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

**UNFINISHED BUSINESS** - None.

**NEW BUSINESS** - None.

**PUBLIC COMMENTS AND PUBLIC PRESENTATIONS**

President Knopp called for public comment with none being offered.

**ASSEMBLY MEETING AND HEARING ANNOUNCEMENTS**

The next meeting of the Kenai Peninsula Borough Assembly was scheduled for May 1, 2012, at 7:00 p.m. in the Borough Assembly Chambers, Soldotna, Alaska.

**ASSEMBLY COMMENTS**

Assembly Member Tauriainen noted that he was encouraged to see the number of items for the Kenai Peninsula Borough that were included in the State of Alaska Capital Budget.

Assembly Member McClure thanked the Assembly for enacting Ordinance 2011-19-79 on behalf of the City of Seward, she thanked the City of Seward for their hospitality. She stated Seward Legislative Information Office was located in the SeaView Plaza, and noted the April showers were needed to control the dust.

Assembly Member Murphy thanked the City of Seward for their hospitality, she stated she had lived in Seward for twenty five-years and it was always like coming home. She noted the poor conditions of the Sterling Highway between Soldotna and Seward.

Assembly Member Haggerty thanked Assembly Member Smith for the hard work he had put into Ordinance 2012-06, he noted it was a complicated ordinance; however, it was put in place to protect the salmon, a species that could not attend the meetings and speak for itself. He noted that Seldovia City Manager, Tim Dillon had shown dedicated commitment to Seldovia with is continued involvement with the Assembly and Ordinance 2012-06. He reminded everyone that on April 24, 2012 there was going to be a recycling effort of electronics, making a tour of Port Graham, Nanwalek and Seldovia. He congratulated Homer resident Randy Wiest for finishing the Boston Marathon.

Assembly Member Johnson thanked the City of Seward for their hospitality, and stated he enjoyed meeting the City Council Members. He stated he was the Vice Chair of the Lands Committee, Sue McClure was the Chair and it had been a pleasure being taught by her.

Assembly Member Smith thanked the City of Seward for their hospitality. He stated his appreciation for Mayor Navarre traveling to Juneau and his representation of the Kenai Peninsula Borough needs.

Assembly Member Smalley thanked the City of Seward for their hospitality, he noted that Seward was a favorite place of one of his grandsons. He thanked Assembly Member Smith, the River Center Staff, Administration and Seldovia for the efforts put into Ordinance 2012-06 to get all of the problems corrected. He noted that Ordinance 2012-06 was not popular when it when it was first introduced; however, continued work is fixing it. He thanked Mayor Navarre for his efforts in Juneau, and noted it had made a difference in what would be happening on the Peninsula.

Vice President Pierce said the efforts of Mayor Navarre in Juneau were evident in the State of Alaska Capital Budget. He stated that the borough funds spent to travel to Juneau in an effort to represent the constituents needs clearly made a difference. He thanked the City of Seward for their hospitality.

President Knopp thanked the City of Seward for their hospitality, and noted how much he enjoyed coming to Seward. He thanked Mayor Navarre and Chief of Staff Paul Ostrander for the work done in Juneau. He thanked Assembly Member Smith for the amendments made to Ordinance 2012-06. He stated during his time on the Assembly there had been three administration, and each administration had strived to do their best. He stated that the Williams administration had lowered mill rates and shifted the tax burden, Carey had done some nice things, and now Mayor Navarre was doing great thing early on in his tenure. He noted the benefits to the Kenai Peninsula Borough having the current representation in Juneau. He noted the monies received from the state benefited everyone economically.

## **ADJOURNMENT**

With no further business to come before the assembly, President Knopp adjourned the meeting at 8:25 p.m.

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

John Blankenship  
Johni Blankenship, MMC, Borough Clerk

Approved by Assembly: May 17 2012

