

MEMO

From the desk of Bill Smith

To: President Gary Knopp,
Kenai Peninsula Borough Assembly members
Date: June 2, 2011
From: Bill Smith

Subject: May 27, 2011 Letter from Rick Koch, City of Kenai regarding KPB Ordinance 2011-12, which amends KPB 21.18.

I note with some interest that Mr. Koch states the City of Kenai “had not received communication from the Borough that this ordinance was being considered and only became aware of the legislation recently.”

The Assembly introduced this ordinance on April 19th. Assembly Member Hal Smalley reported on the ordinance introduction to the Kenai City Council in his report for the April 20th Council meeting. Mr. Koch was present at the meeting.

On May 4th, the Kenai City Council was presented with a map produced by the KPB GIS department which illustrated the streams within the boundaries of Kenai City which are labeled by Fish & Game as anadromous streams. This map was presented by Kenai City councilmember Joe Moore. It was hung on the wall for all to see, and then reviewed and discussed by the Council. Mr. Koch was present at the meeting. On May 18th, a copy of KPB Ordinance 2011-12 was included in the City Council packet.

It appears to me that Mr. Koch’s statement about not receiving notice from the Borough is untrue and misdirects one from the fact of the matter: The Kenai City Council was directly notified the day after the ordinance was introduced. This was in addition to the public notice published the week prior and the radio broadcast of the Assembly meeting. The Kenai City Council has seen & discussed a map of the streams in question and been given a copy of the ordinance.

A poll of Council members found that during and after the review of the proposed ordinance, no council member requested further review or a public meeting.

On May 17th, the Assembly passed an amendment to KPB 21.18 regarding prior existing uses. This ordinance affected properties within the City of Kenai, such as those bordering Beaver Creek. There was no call for a public meeting or postponement by Mr. Koch, and no comment was made by the Kenai City Council. Please note that Beaver Creek is already covered by KPB 21.18.

Mr. Koch’s letter refers to approximately 191 properties within the City of Kenai which are affected by Ordinance 2011-12. As Mr. Koch is likely aware, the City of Kenai owns the largest number of those parcels, the most acreage of parcels and that those parcels are almost completely undeveloped. My quick count of privately owned properties not subject to tidal inundation finds only 26 parcels which are bordered by a salmon stream and 12 which are intersected by salmon streams newly included by the Ordinance. Most of the small parcels are developed with homes which were built away from the streams and will virtually see no impacts from the ordinance. These small streams are mostly bordered by wetlands ill suited for development but perfect for protecting salmon habitat.

Within the City of Kenai, it turns out that one of the few parcels that has a salmon stream passing through it is a 5.98 acre parcel owned by Rick Koch. It may appear to some that Mr. Koch has taken it upon himself to use his position as City Manager to create some public buzz over this ordinance, rather than expressing any personal concerns he may have.

As a property owner, Mr. Koch certainly has legitimate development rights and may feel that there is a potential impact from Ordinance 2011-12. If this is so, he should speak up as a private citizen. If he is using his official position in an attempt to forestall or derail an ordinance he feels will impact his development plans; that would appear to me to be a conflict of interest and misuse of office.

Mr. Koch has requested Assembly President Knopp postpone action on KPB Ordinance 2011-12. It is my understanding that Mr. Knopp is working on a driveway for Mr. Koch's aforementioned property. If the issue of the Ordinance, KPB 21.18 and this development are intertwined, Mr. Knopp may have a conflict on this issue. He should look into this carefully and potentially refrain from official Assembly action either on this ordinance or on Mr. Koch's behalf.

As far as postponing action on the Ordinance, I could be supportive if I felt that individual property owners would benefit from an extra hearing. When this ordinance was introduced, I requested an extra public hearing so that all parties would have a chance to be heard.