



Kenai Peninsula Borough  
Seward/Bear Creek Flood Service Area

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[www.sewardbearcreekfloodservicearea.org](http://www.sewardbearcreekfloodservicearea.org)

Memorandum

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

**THRU:** Mike Navarre, Mayor  
Marcus Mueller, Land Management Officer

**FROM:** Bill Williamson, Chairman *BWL*

**DATE:** 24 May 2012

**SUBJECT:** Acquisition of Salmon Creek Parcels

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At the October 3, 2011 regular board meeting for the Seward/Bear Creek Flood Service Area, a motion to purchase for \$30,000 property owned by James Stewart, et al. passed unanimously.

The Service Area submitted a request for the 2012 State Capital Improvement Projects for the acquisition of flood prone properties along Salmon Creek. This request included the nine parcels of land owned by James Stewart, et al. The Service Area was presented with an opportunity to partner with The Conservation Fund to acquire these properties with Section 404 Clean Water Act compensatory mitigation funds. This partnership will meet the Service Area goal of preventing future flood damage by prohibiting new development within the floodplain.

**SEWARD / BEAR CREEK FLOOD SERVICE AREA  
REGULAR BOARD MEETING  
SEAVIEW PLAZA BUILDING, SUITE 122  
MEETING MINUTES  
3 October 2011**

**A. CALL TO ORDER**

The meeting was called to order at 7:00PM.

**B. ROLL CALL**

BOARD MEMBERS

Bill Williamson, Chairman  
Bob White, Vice Chairman  
Randy Stauffer  
Matt Hall  
John Eads

STAFF

Stephanie Presley  
Service Area Coordinator

BOROUGH STAFF

Dan Mahalak, Water Resources Manager, KPB River Center

**C. APPROVAL OF AGENDA**

**Chairman Bill Williamson** called for approval of the agenda.

**Vice Chairman Bob White** moved to approve the agenda as written.

The motion was seconded and unanimously approved.

**D. APPROVAL OF MINUTES**

Meeting minutes from 9/26/11 not yet available.

**E. REPORTS**

- **Kenai Peninsula Borough**

**Sue McClure, KPB Assembly Member** reported Seward's Assistant City Manager has resigned. She does not know what the status of city involvement will be during the transition with city manager, assistant city manager and with the pending election. She has already talked to city council members about making one of the vacant board seats an "at large" seat to be filled by a resident of the city or the service area. She asked for a letter to the city council requesting one of the city seats be changed to an at large seat. She stated this was a good compromise. She stated she was happy the Borough came over to respond to the flooding and has heard reactions from residents complementing the borough with all the attention they have been paying to our area.

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- **Dan Mahalak, Water Resources Manager, KPB River Center** stated he had nothing to report.

**F. PUBLIC COMMENTS**

**Bob Valdatta** stated his property out on Sawmill Creek upstream of Nash road flooded during the last rain. There was water in his house. A neighbor has removed gravel from upstream.

**G. BOARD'S RESPONSE TO PUBLIC COMMENTS**

**Bill Williamson** asked Dan Mahalak to go take a look to see what it will take to get a permit. No one should do anything until the current situation is done.

**Randy Stauffer** commented that the City of Seward should be kept as a permanent line item on the agenda under Reported to give a venue for the City to report. Added he agreed with Sue McClure's comment about creating an at large seat is a good compromise. He asked if the board needs to vote on creating a letter for Sue to take to the city council.

**Bill Williamson** stated the board has already taken action on this.

**Mac Eads** commented that we had just missed a flood. It was close, it was coming over the bank and running down the driveway. Thankfully the sun started to shine.

**Matt Hall** commented he was almost off the flood board, and was sad he got the call from Stephanie who promised cookies.

**Bob White** commented that Sawmill Creek was one of the pieces left out of the latest US Army Corps of Engineer's Planning Assistance to Stated Report. Mr. Valdatta is one of the dwellings at risk there. There is also a tipping point in Glacier Creek. It is important to keep maintenance in the upper reaches of Kwechak Creek to protect that area.

**H. CORRESPONDENCE & PAYMENT REQUESTS**

- **Borough Mayor Letter**  
**Stephanie Presley** reported a letter from the Mayor was received the 26<sup>th</sup>.

**Bill Williamson** stated the letter was addressed to him. He has asked for a chance to speak to the mayor and the phone call has not been returned. As discussed last week, in an area out by Bear Creek, the water was messing with the tracks. The people where the water broke through behind their house called. There was a response from Bear Creek, and there was no immediate danger, but they did not see where the water

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was going and where it was ending up at the lower end of the valley. Mr. Williamson went out to look and the water was underneath the rails on the railroad, so he called Mr. Dieckgraeff to put a 9 in to plug the hole, to braid the stream back to keep it from going down one channel. The neighbors had called Emergency Management and they had been told OEM would need up to five days before they could get a permit to come down to respond. Mr. Williamson made the judgment call to put the cat in. He did not call the River Center because he did not have time and had to get back to work. Two hours later, Mr. Bevington drove over and told him to get out of the creek, and they did. This is the consequence of not having a permit. The next page is an email John Mohorcich sent for the service area needs to do to make the calculations to get the right permit. The next page is a bill from Metco to do the work for \$1,275. He would like the board to approve payment, otherwise he will pay it himself.

- **Metco Payment**

**Randy Stauffer** asked if Mr. Williamson called Metco as a representative of the flood service board.

**Bill Williamson** answered yes, he felt he was representing the board, because he was called by citizens to take a look because no one in the borough was doing anything. If the board is concerned about the property owners, he has a management agreement with the property owners to maintain any work needed for the property at risk.

**Bob White** stated if the Borough was concerned or responsive to the board, other than saying five days. The work done by the Borough in Clear Creek took a lot of screaming and yelling to get work done when houses and businesses completely surrounded by water.. Because this happened late in the season, properties didn't lose money, but it has happened in the past. The Borough stonewalling or ignorance is frustrating and about time for it to be done with. Taking the action to save the Railroad, the Highway and Bear Creek Fire Department, and we get spanked for it. He doesn't agree with it.

**Matt Hall** commented it takes the Borough five days for them to get a permit, but we hop in the creek and it takes them two hours to get over here.

**John Eads** commented that a flood doesn't give a person time to get all those permits. We have to do the work when we can.

**Bob White** stated that we need cooperation from the Borough, we do not need them to fight with us.

**Bob White** called for a motion to pay the bill.

**Randy Stauffer** seconded the motion. He commented if the board votes to pay this bill, it might be appropriate to respond with a letter to the River Center, explaining

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officially why these actions were taken and why it was necessary. The letters from the Mayor and the Floodplain Administrator saying we were in the creek without a permit are true, and if they are in fact doing their job, they have to write these letters, because if it comes down to the issue of does the borough enforce these rules, these letters indicate they do want to enforce the permits. They picked a time to enforce the permits that was inappropriate.

**Bill Williamson** responded that he was more than willing to accept a citation, admitted to taking this action, and the Borough representative was told why it was necessary at the time, but Mr. Mohorcich decided to go further with it.

**Randy Stauffer** stated that since we are responsible for tax payer money, we need to put on record why we needed to do the work.

**Dan Mahalak** reported we received an email from River Center staff and other regulatory agencies involved in the permitting asking for us to provide some basic pre and post information of the activities of the 21<sup>st</sup> to receive a permit for the work. The Kwechak Creek permit listed later on the agenda is being held up until this issue is resolved.

**Bob White** suggested sending a notification to all the people who are at risk due to the lack of the work being done up Kwechak Creek, saying the Borough is being obstructionist in preventing future flooding in the area, and give the phone numbers for people to call.

The motion was unanimously approved.

**I. PERMITS FOR REVIEW**

- **Kwechak Creek Project**

**Dan Mahalak** reported we filed for a permit last Friday to complete work in Kwechak Creek. This permit has been placed on AI status “additional information required”. Conditional information is required to show the pre-existing conditions the area was in before the work was completed. This permit is in “AI” because it encompasses the same area where the unauthorized work took place.

**Randy Stauffer** asked what information was requested on September 23<sup>rd</sup> by the River Center.

**Dan Mahalak** reported what information had been requested.

**Randy Stauffer** stated the board needs to explain what was done, and why it was done. The board should provide what information we have. If the River Center wants to hold up other permitting, then he agrees with Mr. White that it is obstructionism.

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**Bob White** asked if the work done two weeks prior by the Office of Emergency Management aggravated this problem. They have some culpability as well if they did the work due to flawed engineering or advice.

**Bill Williamson** responded that due to the way the gravel was moved, it was unbalanced and made the river move to one side. The amount of money appropriated for the emergency response was not enough. After the emergency work, he wanted to have a meeting to appropriate money to continue the work downstream and finish the project, but there was no meeting. They weren't able to finish the job due to lack of funds, and the board was not able to meet and vote on finishing the project.

**Randy Stauffer** stated that all this needs to be put into our report.

**Bill Williamson** stated he will work with Dan to get this finished. The permit application on page 5 of the packet for the proposed area is to go back and repair the problem we have right now.

**Randy Stauffer** asked if the board had already approved this work two years ago, but because of permitting, we haven't been able to do it.

**Dan Mahalak** responded the board did approve work to be done in Kwechak, the work was done with a D9 pushing up both sides, and it hasn't been done again.

**Bill Williamson** added that the board did approve work up above the bridge, but this permit application is for work below the bridge.

**Dan Mahalak** stated that this project should not take more than two days.

**Randy Stauffer** asked what kind of funds are needed and if the board has funds available.

**Stephanie Presley** stated she does not have the financial report with her, but that we do have funds available and will check after the meeting.

**Dan Mahalak** stated it should take about \$10,000.

**Bob White** moved to fund the project for \$10,000 cap.

The motion was seconded and unanimously approved.

**J. OLD BUSINESS**

- **Stewart Properties**

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**Bill Williamson** stated that last week a motion was on the table to purchase the 53 acre parcel for \$30,000.

**Oliver Kunitake** asked to see what the entire three parcels would cost.

**Bob White** responded that the information was on the sheet he gave Mr. Kunitake.

**Bill Williamson** asked for a motion to purchase the 53 acres, so if there is another problem in Clear Creek, the board can go in there and do the work that needs to be done.

**Randy Stauffer** moved to offer to purchase the 53 acres.

**Matt Hall** seconded the motion.

**Randy Stauffer** commented that the board is using local funds to purchase the property and the land is going to the Borough, and the land will be owned by all the citizens of the Borough, even though local citizens will pay for it. He asked what guarantees does the board have from the Borough to be able to utilize the land for flood mitigation projects or possibly to store materials. He asked what the board could do to ensure the land be used for the benefit of this community.

**Bill Williamson** stated the reason land is being bought is for flood mitigation. He added that somewhere in the language, maybe with Borough Land Management, or the assembly, there should be a written contract that this land should be put into a land bank and could not be sold again. He stated there may need to be a resolution and that tonight the board is voting to purchase the land, but the board should investigate language that will set it aside for flood mitigation.

**Bob White** stated the board may be able to use the same stipulations in the Old Mill buyout as far as what can be stored there, and what it can be used for. He added one flaw in that agreement is that the board cannot store materials on the land. He stated an agreement should be possible so the board can use the land for flood mitigation. He added there is a lot of gravel coming down Salmon Creek that will need to be moved out of the way.

**Randy Stauffer** asked if the board obtains this land, will the board have access to it.

**Bill Williamson** stated there are two lots owned by the Borough and there can be access to that property. The board would not need to come in from the other side.

**Bob White** commented there may need a bridge because there is a stream there.

**Randy Stauffer** asked if the board can get across there, not a political problem, but if there is a natural problem.

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**Bob White** stated that a CAT could get through there.

**Bill Williamson** stated that there is access.

**Oliver Kunitake's** comments that the board could come in from his property.

**Bill Williamson** stated that the board could draw up a waiver or an agreement for access to get across his property.

**Dan Mahalak** shared LIDAR cross section data across two of the parcels. He stated part of the problem at the Clear Creek/Salmon Creek confluence is that the river is higher than the adjacent ground. He stated that to have any kind of effect, the board will need to purchase both properties.

**Bob White** asked if the other property was put on the wish list.

**Bill Williamson** stated that the board put this property and others downstream on the capital projects request for the Borough. He added that as the year goes on, the board may have funds available to purchase the other parcel. He stated one of the problems may be that the Office of Emergency Management is about out of money and it looks to them as if the board has a huge bank account. The Borough doesn't want to spend their money over here, and the service area has money and they think the board should be spending it.

**Randy Stauffer** commented he was surprised by Erik Mohrmann's statement they had used over 50% of Emergency Management funds on the two projects over here. It turned out to be less than \$25,000. He stated if that is all that has been appropriated for emergency response for a fiscal year, then the borough is in a heap of trouble considering wild fires. He continued it was an interesting statement, and he can understand that if Emergency Management has that little funds that he doesn't want to spend their money over here.

**Bob White** stated \$50,000 is typical and they live on the dependency of disaster declarations to take care of the real work.

**Bill Williamson** stated the motion on table is to purchase or not the 53 acres.

The motion was unanimously approved.

- **Capital Projects Request**

**Stephanie Presley** reported drafts of the two capital projects were in the packet. The first is the bed load removal that has been requested the last several years. The second is for purchase of 22 properties to be along Salmon Creek for flood mitigation.



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**Bob White** stated there is one more property in Old Mill, not on the buyout list, due west of Judy Rowe's property. If the board would like to do maintenance out there and haul material, it could be stored there. He continued the property is currently for sale, and someone cleared it and was going to build there. It would be big enough to store materials, and it could be used to put scrapers in there. He stated the board can't leave materials on any of the properties already bought out there.

**Randy Stauffer** commented that both projects are about \$1,000,000. He asked if the board was going to request one project around \$400,000, so there was some option other than \$1,000,000.

**Stephanie Presley** reported the assessed value of the 22 properties on the screen add up to \$1,200,000, and with the funds the board has been setting aside to match a large project, the project would come up to \$1,000,000 plus those funds.

**Bill Williamson** commented we should cut the properties in half and put in for the other half next year.

**Bob White** asked why the three parcels in a row on the south side of Nash Road were included, and if the board was going to try to let water go under Nash Road.

**Bill Williamson** stated the board was looking there to get some relief underneath the highway. He asked if there is money available for culverts.

**Dan Mahalak** reported he had been told that if the board could ascertain property on the south side of Nash Road the board may be able to obtain matching funds for culverts to go through Nash Road.

**Bob White** commented the impact could be pretty huge because Old Nash is lower than the new Nash. He stated he can see a long fight with those property owners, not to mention the liability if they flooded. He added the two properties on the south side of the road, the hook at the curve of the system, are the only parcels that the board could have an effect. He suggested an additional hundred foot span where the bridge currently exists.

**Randy Stauffer** stated the board was talking about details, but for the purpose of the capital projects, there are a number of properties to buy to make sure people don't develop those. He stated he was not making comments on Mr. White's comments, but for the purpose of the capital projects, the board may have one of lesser amount.

**Dan Mahalak** asked if he should send some maps to the board to prioritize properties.

**Stephanie Presley** stated these requests were due before next meeting.

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**Bill Williamson** commented the board may put in for \$500,000 and take the numbers of properties down. He continued the idea was to start and work down from the confluence of Salmon and Clear Creek and start working down to Resurrection River. Put in for \$500,000 to get it out of the floodplain.

**Bob White** added to get the properties out of potential development.

**Randy Stauffer** stated the board should cut this back to \$500,000 or \$600,000 and pick the properties and decide what are the priorities.

**Bill Williamson** asked Dan Mahalak if he could do this.

**Dan Mahalak** clarified that he should start at the Stewart Properties and work south until it totaled about \$500,000 of assessed values.

- **Seward PAS Report/ USACE Meeting**

**Bill Williamson** asked Mr. Mahalak when the USACE meeting would be.

**Dan Mahalak** reported he had talked to them today, and they are in receipt of verbal comments from the last meeting, combined with the PAS study team members and let them know we need to schedule a meeting. He added he will send the meeting time out via email and would request some board members attend. He stated verbatim from the Corps that if the board wants the Corps to implement any construction projects, the service area will need to conduct another study. The meeting can be scheduled around everyone's schedule and will be held in the service area office.

**Bill Williamson** stated the some board members will need to attend that meeting.

**K. NEW BUSINESS**

There was none at this time.

**L. INFORMATIONAL ITEMS AND REPORTED (No action required)**

- **Coordinator out of office**  
**Stephanie Presley** reported she will attend the Kenai Watershed Symposium.

**M. PUBLIC COMMENT**

**Bob Valdetta** commented he doesn't remember when anyone got onto the city about the flood from Ben's Store, where the Y is, from there on to the beach, there's supposed to be someone doing work there every year and no one has ever put pressure on them. He asked where the culverts sitting on Blaine's property are going.

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**Dan Mahalak** reported they are replacing the culverts currently under Salmon Creek Road.

**Bob Valdetta** asked if they put those in if Mac's would be doubly flooded.

**Bob White** responded the ditch will get inundated with water, but no worse than it already does. He stated the problem is if that passage is not there, then it all has to go underneath the bridge, then it over banks at Ava's. By giving it more passage, what will happen in a high water event is the railroad and Salmon Creek Road will become a channel to those culvert for that water to get out. He explained what the board is trying to accomplish with that is to get passage down lower and then get focus on passage either by depending the channel under the bridge or putting more passage underneath. He further explained the purpose for buying the properties adjacent to Salmon Creek at Nash Road so there can be more passage through the road. The road is a dam.

**Bob Valdatta** stated he could give written access across his property.

**Bill Williamson** stated the service area has a wavier that Mr. Valdatta could sign.

**Oliver Kunitake** commented that he would want to know what are the conditions the board would want for transaction in the future. He added if the board can get a basic easement, it would be a miracle, but if it can be done, so be it, and maybe the board has a bit more clout.

**Bob Reisner** asked if the board puts in larger culvert on Salmon Creek, what kind of pressure it would that put on Glen's property on the downstream bank

**Dan Mahalak** stated the conveyance calculation requires that you have to not raise the surface water elevation one foot or less than a one foot rise.

**Bill Williamson** added that there is only so much water that can come through the railroad culverts.

**Dan Mahalak** stated the purpose is to lower the surface water elevation of any given flood. The only way to truly reap the reward would be to put holes through Nash Road, under twenty foot, otherwise have to go through DOT, that hasn't happened yet because of those individual property owners on the downstream side. Trying to find a project that fulfills the mission of flood planning, protection and mitigation services on a tax levy fair use of watershed wide benefit, that is the number one project that the board could for the service area. We also have a document from 1995 discussing reducing the backwater effects due to infrastructure. In that report, they mentioned the levee road being built and discussed the three railroad bridges increases and some other issues that have all been accomplished. So this is the last piece of the puzzle that hasn't happened yet and the service area is doing it on their own.

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**N. BOARD COMMENT**

**Bob White** commented on Mr. Valdetta's statement and said that the service area had repeatedly brought up the issue of failure of the Borough and the City to maintain the 1998 dredging which they signed in writing and have not funded since. The specific area is not very far below the bridge. The board has mentioned it to DOT and someone could bring it to the attention of Council, but the Borough assembly needs to be aware of the contract they signed also.

**Randy Stauffer** wished to thank Ms. McClure for moving forward on a solution for the lack of board members. He commented on permitting issues with the River Center, obviously we have to play by the rules and obviously have to protect property in this area, because that is what the people expect the board to do.

**John Eads** had no comment.

**Matt Hall** stated if anyone writes him in on the ballot during the election, he is going to hunt them down.

**Bill Williamson** asked Sue McClure about ordinance 2011-19 to do with coastal management, but he thought coastal management was dissolved by the Governor.

**Sue McClure** responded she would follow up on it next meeting, but she thought it was an existing modeling project, and was not a lot of money that carried over because it had not been expended.

**O. ADJOURNMENT**

**Bob White** moved that the meeting be adjourned.

The motion was seconded and unanimously approved.

**MEETING ADJOURNED at 8:15 PM.**

**NEXT MEETING WILL BE MONDAY, OCTOBER 17, 2011 AT THE  
SEAVIEW PLAZA BUILDING, SUITE 122 AT 7:00 PM.**

Stephanie Presley  
Secretary

Minutes Approved: 10/17/11  
Date of Approval