
Kenai Peninsula Borough

Assembly Meeting Minutes

August 5, 2003 - 7:00 p.m.

Regular Meeting - Soldotna, Alaska

CALL TO ORDER

A Regular Meeting of the Kenai Peninsula Borough Assembly was held on August 5, 2003, in the Assembly Chambers, Borough Administration Building, Soldotna, Alaska. President Sprague 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 Father Frank Ritter, Our Lady of Perpetual Help Catholic Church, Soldotna.

There were present:

Pete Sprague, Presiding
John Davis
Paul Fischer
Betty Glick
Ron Long

Milli Martin
Grace Merkes
Chris Moss
Gary Superman

comprising a quorum of the assembly.

Also in attendance were:

Dale Bagley, Borough Mayor
Colette Thompson, Borough Attorney
Linda Murphy, Borough Clerk
Sherry Biggs, Deputy Borough Clerk

COMMITTEE REPORTS

(Tape 1, 85)

Assembly Member Moss reported the Finance Committee met and addressed its lengthy agenda.

Assembly Member Martin said the Lands Committee addressed its agenda.

Assembly Member Glick reported the Policies and Procedures Committee met and discussed its agenda items. Mrs. Glick presented Mayor Bagley an achievement award from the National Association of Counties (NACo) recognizing the Cook Inlet Salmon Branding Project.

Assembly Member Long said the Legislative Committee met and received reports on the recent National Association of Counties (NACo) and Alaska Municipal League (AML) conferences. Mr. Long provided information on the legislative trip to Washington, D.C.

APPROVAL OF AGENDA AND CONSENT AGENDA

(Tape 1, 845)

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

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

The following item was moved from the consent agenda to the regular agenda:

- Resolution 2003-087: Providing for the Submission to the Voters of a Proposition Authorizing Areawide Authority of the Kenai Peninsula Borough to Fund Services Provided by the Alaska Challenger Center for Space Science Technology, Inc. (Glick) (Referred to Policies and Procedures Committee)

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

- June 12, 2003 Board of Equalization Hearing Minutes
- June 13, 2003 Board of Equalization Hearing Minutes
- June 17, 2003 Board of Equalization Hearing Minutes
- July 8, 2003 Board of Equalization Hearing Minutes
- July 8, 2003 Regular Assembly Meeting Minutes
- Resolution 2003-084: Authorizing Award of a Contract for Services for the Building Automation Systems Direct Digital Control Processing Upgrade (Mayor) (Referred to Finance Committee)
- Resolution 2003-085: Classifying Certain Borough Land Located in the North Kenai, Sterling, Kalifornsky Beach, Beluga, Moose Point, and Gray Cliff Areas Pursuant to KPB 17.10.080 (Mayor) (Referred to Lands Committee)

[Clerk's Note: Technical amendments were made to Resolution 2003-085 as follows:

Final Whereas to read, "the Kenai Peninsula Borough Planning Commission held a public hearing on the proposed classifications on July 28, 2003 and recommended adoption by unanimous consent;

Recommended classifications were changed in Section 1. as listed below:

Parcel No. 065-370-16 [RURAL] Residential
Parcel No. 065-370-17 [RURAL] Residential

- Resolution 2003-086: Providing for the Issuance and Sale of General Obligation Bonds of the Kenai Peninsula Borough in the Aggregate Principal Amount of Not to Exceed \$10,500,000 to Pay the Costs of Hospital Improvements in the South Peninsula Hospital Service Area, Fixing Certain Details of Such Bonds, and Pledging the Full Faith and Credit of the South Peninsula Hospital Service Area to the Payment Thereof (Mayor) (Referred to Finance Committee)
- Resolution 2003-088: Supporting Citizen-Based Volunteer Water Quality Monitoring as a Cost Effective and Reliable Way to Protect Fisheries, Wetlands, and Local Water Bodies (Martin) (Referred to Lands Committee)

[Clerk's Note: A technical amendment was made to Resolution 2003-088 to include Senator Con Bunde, Senator Georgianna Lincoln, Representative Mike Hawker and Representative Carl Morgan as recipients of the signed resolution.]

- Ordinance 2003-19-06: Approving a Revised School Budget and Appropriating \$525,658 from the General Fund to Provide Supplemental Funding from Local Sources for School Purposes During Fiscal Year 2003-2004 (Mayor) (Hearing on 09/02/03) (Referred to Finance Committee)
- Ordinance 2003-19-07: Accepting and Appropriating \$100,000 from the Boys and Girls Club of the Kenai Peninsula for the Community Education Center in Seldovia (Mayor) (Shortened Hearing on 08/19/03) (Referred to Finance Committee)
- Ordinance 2003-19-08: Appropriating \$359,000 from the State of Alaska Fisheries Revitalization Program to the Cook Inlet Salmon Branding Project (Mayor) (Hearing 09/02/03) (Referred to Finance Committee)
- Ordinance 2003-19-09: Accepting and Appropriating a Grant from the Alaska Manufacturers' Association in the Amount of \$94,000 for the Cook Inlet Salmon Branding Project (Mayor) (Shortened Hearing on 08/19/03) (Referred to Finance Committee)
- Ordinance 2003-33: Authorizing the Sale of 41 Parcels of Borough Land by Outcry Public Auction (Mayor) (Shortened Hearing on 08/19/03) (Referred to Lands Committee)
- Ordinance 2003-34: Authorizing Retention or Sale of Certain Real Property Obtained by the Kenai Peninsula Borough through Tax Foreclosure Proceedings (Mayor) (Shortened Hearing on 08/19/03) (Referred to Finance Committee)
- Petition to vacate a portion of Olsen Avenue, dedicated by Douglas Lake Subdivision (Plat KN 76-89) and a portion of Muskrat Circle, dedicated by Douglas Lake Subdivision Lots 1-A, 1-B, 1-C, Block 1 (Plat KN 81-95); within Section 29, Township 7 North, Range 11 West,

Seward Meridian, Alaska; and within the Kenai Peninsula Borough; KPB File 2003-127;
Location: East of Holt-Lamplight Road, Nikiski area (Referred to Lands Committee)

[Clerk's Note: The Planning Commission approved the referenced vacation by unanimous consent during its regularly scheduled meeting of July 14, 2003.]

- Approving the Application for Restaurant Designation Permit filed by Naptowne Inn & Café in Sterling (Referred to Finance Committee)
- Confirming Appointments to the Lowell Point Emergency Service Area Board (Referred to Policies and Procedures Committee)

| <u>APPOINTMENT</u> | <u>SEAT</u> | <u>TERM EXPIRES</u> |
|--------------------|-------------|---------------------|
| Mica Van Buskirk | A | October 2005 |
| Jim McCracken | B | October 2005 |
| Linda M. Paquette | C | October 2005 |
| Gloria Sears | D | October 2005 |
| Michael A. Miller | E | October 2005 |

President Sprague called for public comment.

(Tape 1, 1220)

Mike Rood, 2701 Jefford Place, Anchorage, AK, spoke in opposition to industrial use in the Beluga Area, as per Resolution 2003-085.

AGENDAS APPROVED AS AMENDED: Without objection.

(Tape 1, 1350)

COMMENDING RESOLUTIONS AND PROCLAMATIONS - None.

PUBLIC COMMENTS AND PRESENTATIONS

(Tape 1, 1360)

Randy Sears and **Petter Jahnsen** of the Alaska Permanent Capital Management Company provided an overview of their portfolio investment services as contracted by the borough.

REPORTS OF COMMISSIONS AND COUNCILS - None.

MAYOR'S REPORT

(Tape 1, 1800)

1. Agreements and Contracts
 - a. Spruce Bark Beetle Mitigation Program:
 - Notice of Award to Covey & Sons, Inc. for Anderson Flats Timber Sale
 - Notice of Award to Covey & Sons, Inc. for Coyote Hills Timber Sale
 - Notice of Award to Homer Cabins for Green Timbers Timber Sale

- Contract with Tinker Creek Surveys for Moose Pass Surveying Project
 - Contract with Tinker Creek Surveys for Seward Hwy Mile 23-26 Surveying Project
 - Contract with Alaska Clear Cut Land Clearing for Woodman Lane Right-of-Way
 - Contract with Paul's Services for Research Planting Sites Stump and Slash Removal Project
 - Contract with S&R Enterprises for Kenai Fire Wise Site Pre-burn, Clean-up/Slash Stacking
 - Contract with Jackinsky Services for Ninilchik River Slash Removal Project
 - Contract with Paul's Services for Challenger Center Slash Removal Project
 - Contract with Paul's Services for Kasilof River & Johnson Lake Slash Removal Project
 - Contract with Steve's Tree Service for Jasper Lane ROW Project
 - Contract with Peninsula Excavating for Toklat Way ROW Project
 - Contract with Tinker Creek Surveys for Sterling Highway Mile 140-156 Surveying Project
 - Contract with Paul's Services for Halibut Campground Slash Removal Project
- b. Approval of contract with North Star Paving & Construction for Moose Pass School Paving Project
 - c. Approval of contract with Medical Education Technologies for ECS Advanced Training Class for CES
 - d. Approval of bid award to R. Lynn Carlson, M.D. for Physicians Medical Director for the Nikiski Fire Service Area
 - e. Approval of bid award to Dr. William Cooper, M.D., for Physicians Medical Director for the Bear Creek Fire Service Area
 - f. Waiver of Invitation for Bids Public Notice for Municipal Entitlement survey of lands in the Cooper Landing area
 - g. Approval of Cooperative Agreement for CIAP Grant Project between KPB and Youth Restoration Corps - Kenai River Center Project
 - h. Agreement between City of Homer and KPB on behalf of Kachemak Emergency Service Area for Provision of Fire and Emergency Medical Services
 - i. Lease Agreement Extension between KPB and Robert Plymire for Homer KPB Annex

- j. Approval of bid award and contract to Mud Bay Mechanical for Homer Baling Facility Exhaust System
 - k. Approval of contract with Hughes Drilling, Inc. for Central Peninsula Landfill Well Installation
 - l. Approval of Memorandum of Agreement between KPB and CPGH regarding operating funds
 - m. Approval of bid award to Hopkins Brothers Construction for Seldovia Landfill Operations and Maintenance
 - n. Approval to waive formal bidding procedures for Hot Water Heater Replacement at North Peninsula Recreation Pool
 - o. Approval to waive formal bidding procedures for Scaffold Rental & Erection at Homer High School
2. Other
- a. Memo from Mayor Bagley appointing Craig Chapman as acting finance director effective July 28, 2003
 - b. Borough Grants Summary
 - c. Kenai Peninsula Small Business Development Center Quarterly Report - April 1, 2003 through June 30, 2003
 - d. Budget Revision - June 2003
 - e. Revenue Expenditure Report - June 2003
 - f. Investment Portfolio Report as of June 30, 2003

ITEMS NOT COMPLETED FROM PRIOR AGENDA

(Tape 1, 1885)

- 1. Ordinances for Introduction

Ordinance 2003-32: Providing for the Submission to the Voters of a Proposition Authorizing Areawide Authority of the Kenai Peninsula Borough to Fund Services Provided by the Alaska Challenger Center for Space Science Technology, Inc. (Glick) (Referred to Policies and Procedures Committee)

MOTION: Glick moved to schedule a public hearing for Ordinance 2003-32 on September 2, 2003.

President Sprague called for public comment.

The following people spoke in favor of Ordinance 2003-32:

- John Williams**, 306 Candlelight Drive, Kenai, AK
- Duane Bannock**, 2679 Lauren Creek Loop, Anchorage, AK
- Gary Turner**, 215 Riverwatch Drive, Soldotna, AK
- Diana Zirul**, 220 Spur View Drive, Kenai, AK

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

VOTE ON MOTION TO SET HEARING:

| | |
|--------------------------------------|---|
| Yes: | Davis, Glick, Long, Sprague |
| No: | Fischer, Martin, Merkes, Moss, Superman |
| Absent: | None |
| MOTION TO SET PUBLIC HEARING FAILED: | 4 Yes, 5 No, 0 Absent |

2. New Business - Other

(Tape 1, 2730)

Street Name Review as Requested by Mr. Buz Moore (Tall Tree Avenue - Planning Commission Resolution SN2003-10) (Referred to Lands Committee)

Planning Director Max Best provided an overview of the planning commission's actions regarding the Cottonfield Avenue name change.

President Sprague called for public comment.

The following people spoke in opposition to the name change:

- Cloyd Moser**, 3300 Princeton Way, Anchorage, AK
- Rex Kline**, Cottonfield Avenue, Anchor Point, AK
- Buz Moore**, PO Box 284, Anchor Point, AK

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

Assembly Member Martin asked about previous street name changes for Cottonfield Avenue. Mr. Best provided information on earlier name changes.

| | |
|---------|--|
| MOTION: | Martin moved to affirm the action of the planning commission and adopt its findings. |
|---------|--|

VOTE ON MOTION TO UPHOLD THE DECISION OF THE PLANNING COMMISSION:

| | |
|------|-------------------------------------|
| Yes: | Martin, Merkes, Moss, Long, Sprague |
| No: | Davis, Fischer, Glick, Superman |

Absent: None
MOTION TO UPHOLD PASSED: 5 Yes, 4 No, 0 Absent

PUBLIC HEARINGS ON ORDINANCES

(Tape 2, 10)

MOTION: Long moved to suspend the rules and address Ordinance 2003-30 as the next item of business to receive public testimony from participants at the Seward City Hall teleconference site.

MOTION PASSED: Unanimous.

Ordinance 2003-30: Establishing the Seward-Bear Creek Flood Service Area (Long, Mayor) (Referred to Lands Committee)

MOTION: Martin moved to enact Ordinance 2003-30.

President Sprague called for public comment.

The following people spoke in favor of Ordinance 2003-30 via teleconference from Seward:

Tim McDonald, PO Box 25, Seward, AK
Peter Simon, 12204 Nautical Avenue, Seward, AK
William Williamson, PO Box 2633, Seward, AK

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

MOTION: Martin moved to amend Ordinance 2003-30 as follows:

Sixth Whereas to read, “the meeting was well attended, and [APPROXIMATELY FIFTEEN] seventeen persons testified with 17 supporting and 0 opposing formation of the service area; and”

MOTION TO AMEND PASSED: Without objection.

MOTION: Long moved to amend Ordinance 2003-30 as follows:

Section 1. 16.50.030. Board of Directors.

“...Board seats to be filled at the first election of board members shall be staggered as

follows: Seats A and D for one year; seats B and E for two years; and seats C, F, and G for three years. Seats A, B, C and F shall be filled by residents of the City of Seward, and Seats D, E, and G shall be filled by residents of the area outside the city limits of the City of Seward and inside the service area boundaries. Notwithstanding the provisions of KPB 16.04.060, the first board shall be appointed by the Mayor and confirmed by the Assembly for one year terms.”

16.50.090. Board–Powers and duties.

“Pursuant to the provisions of AS 29.35.460 the board of directors of the service area, subject to KPB 16.04.001, assembly approval and appropriation of funds, shall have the power to provide flood protection, planning and mitigation, [RESPONSE, AND RECOVERY] services. Additionally, subject to assembly approval, the board shall be responsible for developing, implementing, and updating a development plan for furnishing flood protection [, RESPONSE, AND RECOVERY] services, and for determining the level of such services to be provided by the service area. Services shall only be provided that primarily address service area wide flood issues and that reflect fair use of the tax levy for watershed-wide benefit. Nothing in this ordinance shall be construed to usurp or otherwise affect the City of Seward’s authority regarding any stormwater or surface water projects that primarily impact the City of Seward, and existing flood control projects or contracts with the U. S. Corps of Engineers or other agencies. The board shall develop criteria for determining service area involvement in future flood control projects, and shall coordinate with the City of Seward to ensure there is no duplication or contradiction in flood control projects or services provided. The board shall promptly provide accurate and complete copies of minutes of all board meetings, all board

resolutions or other actions taken by the board to the mayor and assembly.”

And to amend the proposition language in Section 2 to read, “Shall the Kenai Peninsula Borough be authorized to exercise powers to provide flood planning, protection, [RESPONSE, AND RECOVERY PLANNING] and mitigation services in the Kenai Peninsula Borough Seward-Bear Creek Flood Service Area within the service area boundaries defined by Ordinance 2003-30?”

MOTION TO AMEND PASSED: Without objection.

Assembly Member Moss asked for clarification on the requirements for passage within the City of Seward. Borough Attorney Colette Thompson explained the proposition had to pass by a majority vote within the city limits and also by a majority of those voters outside the city limits but within the proposed service area.

MOTION TO ENACT AS AMENDED PASSED: Unanimous.

(Tape 2, 555)

Ordinance 2003-19-03: Appropriating \$14,700,000 in General Obligation School Bond Proceeds to the School Bond Fund for Costs Associated with Design and Construction of the New Seward Middle School (Mayor) (Referred to Finance Committee)

MOTION: Moss moved to enact Ordinance 2003-19-03.

President Sprague called for public comment with none being offered.

MOTION TO ENACT PASSED: Unanimous.

(Tape 2, 625)

Ordinance 2003-19-04: Appropriating \$584,840.44 from the Division of Emergency Services to Reimburse the Borough for Cost Incurred in Responding to Flooding Occurring from October 23, 2002 to November 12, 2002 (Mayor) (Referred to Finance Committee)

MOTION: Moss moved to enact Ordinance 2003-19-04.

President Sprague called for public comment with none being offered.

MOTION TO ENACT PASSED: Unanimous.

(Tape 2, 680)

Ordinance 2003-19-05: Appropriating \$25,000 from Central Emergency Service Area to Funny River Emergency Services, Inc. for Prepaid Rent of Space in the

Funny River Fire Station (Mayor at the request of the Central Emergency Service Area Board) (Referred to Finance Committee)

MOTION: Moss moved to enact Ordinance 2003-19-05.

President Sprague called for public comment with none being offered.

MOTION TO ENACT PASSED: Unanimous.

(Tape 2, 745)

Ordinance 2003-22: Establishing the Kenai Peninsula Borough Trails Service Area (Mayor, Martin) (Final Hearing) (Referred to Lands Committee)

[Clerk's Note: There was a motion to enact on the floor from the July 8, 2003 meeting.]

President Sprague called for public comment.

The following people spoke in favor of Ordinance 2003-22:

Charles Tachick, PO Box 222, Soldotna, AK
Evy Gebhardt, PO Box 653, Kasilof, AK
Steve Crane, 46670 Lincoln Avenue, Soldotna, AK
Howard Davis, Mile 117 Sterling Highway, Clam Gulch, AK
Nancy Kitchen, 5116 Dorothy Drive, Kasilof, AK
Charlie Diamond, 260 Sunrise Court, Soldotna, AK
Roy Hoekema, PO Box 364, Kasilof, AK
Katie Crane, 35555 Kenai Spur Highway, #246, Soldotna, AK
Susan Wilcox, 416 McCullum Drive, Kenai, AK

The following person spoke in opposition to Ordinance 2003-22:

Ruby Kime, Alice Avenue, Ninilchik, AK

(Tape 2, 1460)

MOTION: Martin moved to amend Ordinance 2003-22 as follows:

Section 1 to read, "16.80.101. Boundaries.

There is established a service area within the borough designated as the "Kenai Peninsula Borough Trails Service Area" in that portion of the borough described as all lands lying within the established boundaries of the Kenai Peninsula Borough, excepting therefrom all lands lying within the corporate city limits of each home rule and general law city in the borough. [OF THE AREA REFERENCED IN

THE SEWARD MERIDIAN, STATE OF ALASKA:]

(Tape 2, 1530)

MOTION:

Superman moved to add a final phrase to 16.80.010. Boundaries.

“There is established a service area within the borough designated as the “Kenai Peninsula Borough Trails Service Area” in that portion of the borough described as all lands lying within the established boundaries of the Kenai Peninsula Borough, excepting therefrom all lands lying within the corporate city limits of each home rule and general law city in the borough, [OF THE AREA REFERENCED IN THE SEWARD MERIDIAN, STATE OF ALASKA:] and all lands lying within the North Peninsula Recreation Service Area.”

Assembly Member Merkes spoke in favor of Mr. Superman’s amendment.

(Tape 2, 1755)

Mayor Bagley said that 0.1 mill would raise approximately \$305,000, with \$143,000 coming from the North Peninsula Recreation Service Area. If the North Peninsula Recreation Service Area was excluded from the Trails Service Area, the amount raised by 0.1 mills would be \$161,000.

Assembly Member Davis spoke in opposition to the Superman amendment.

VOTE ON SECONDARY AMENDMENT (Superman):

| | |
|------------------------------------|---|
| Yes: | Merkes, Sprague, Superman |
| No: | Davis, Fischer, Glick, Long, Martin, Moss |
| Absent: | None |
| MOTION TO AMEND FAILED (Superman): | 3 Yes, 6 No, 0 Absent |

VOTE ON SECONDARY AMENDMENT (Martin):

| | |
|----------------------------------|--|
| Yes: | Davis, Fischer, Glick, Long, Martin, Moss, Sprague |
| No: | Merkes, Superman |
| Absent: | None |
| MOTION TO AMEND PASSED (Martin): | 7 Yes, 2 No, 0 Absent |

MOTION:

Martin moved to amend Ordinance 2003-22 as follows:

16.80.070 (A)(1) to read, “[MAKE RECOMMENDATIONS AND MONITOR THE] Acceptance, improvement, management, construction, and maintenance

of public trails within the borough, provided that the board is not authorized to consider the involuntary acquisition of any private property;”

VOTE ON MOTION TO AMEND:

Yes: Davis, Glick, Long, Martin, Moss, Sprague
No: Fischer, Merkes, Superman
Absent: None
MOTION TO AMEND PASSED: 6 Yes, 3 No, 0 Absent

MOTION:

Martin moved to amend Ordinance 2003-22 as follows:

“16.80.070 (A) 9. Coordinate with the North Peninsula Recreation Service Area Board to ensure there is no duplication of services by the two service areas.”

Assembly Member Merkes spoke in opposition to the amendment.

Assembly Member Davis spoke in favor of the amendment.

Assembly Member Superman spoke in opposition to the amendment and felt it would be impossible to avoid duplication of services.

VOTE ON MOTION TO AMEND:

Yes: Davis, Fischer, Glick, Long, Martin, Moss, Sprague
No: Merkes, Superman
Absent: None
MOTION TO AMEND PASSED: 7 Yes, 2 No, 0 Absent

Assembly Members Superman and Merkes spoke in opposition to Ordinance 2003-22.

Assembly Member Martin said the disbanded Trails Commission lacked the authority needed to address all aspects and she wanted trails powers outlined in the borough code.

Assembly Member Moss reminded his fellow assembly members that the voters would make the final decision.

MOTION:

Merkes moved to amend the proposition language as follows:

“Do you approve the exercise of powers necessary to provide trails services within the

(Tape 3, 360)

Kenai Peninsula Borough Trails Service Area established by Kenai Peninsula Borough Ordinance 2003-22? It is expected that services provided by this service area would be funded by property taxes.

VOTE ON MOTION TO AMEND:

Yes: Fischer, Merkes, Moss, Superman , Sprague
No: Davis, Glick, Long, Martin
Absent: None
MOTION TO AMEND PASSED: 5 Yes, 4 No, 0 Absent

(Tape 3, 545)

The gavel was passed to Vice President Superman. President Sprague said KPB Chapter 2.75 Trails Commission still authorized the powers and duties to conduct the same planning functions without additional taxes. Mr. Sprague said it was unnecessary to establish a service area. The gavel was returned to President Sprague.

VOTE ON MOTION TO ENACT AS AMENDED:

Yes: Davis, Fischer, Long, Martin, Moss
No: Glick, Merkes, Superman, Sprague
Absent: None
MOTION TO ENACT AS AMENDED PASSED: 5 Yes, 4 No, 0 Absent

(Tape 3, 860)

MOTION: Martin moved to suspend the rules and receive public testimony on Ordinance 2003-29.

President Sprague denied the request.

MOTION: Martin moved to appeal the ruling of the chair.

VOTE ON MOTION TO UPHOLD THE RULING OF THE CHAIR:

Yes: Glick, Superman, Sprague
No: Davis, Fischer, Long, Martin, Merkes, Moss
Absent: None
MOTION TO UPHOLD THE RULING FAILED: 3 Yes, 6 No, 0 Absent

(Tape 3, 990)

President Sprague called for public testimony on Ordinance 2003-29.

The following people spoke in favor of Ordinance 2003-29:

Brad Kruger, PO Box 1003, Homer, AK
Charlie Franz, PO Box 2453, Homer, AK
Cliff Calkins, PO Box 2020, Homer, AK

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

Ordinance 2003-27: Providing for Submission to the Qualified Voters of the Central Kenai Peninsula Hospital Service Area the Question of Authorizing the Issuance of General Obligation Bonds in an Amount not to Exceed Forty Nine Million Nine Hundred Thousand Dollars (\$49,900,000) to Pay the Costs of Hospital Capital Improvements, at a Regular Election in and for the Central Kenai Peninsula Hospital Service Area on October 7, 2003 (Mayor at the Request of the Central Peninsula General Hospital) (Final Hearing) (Referred to Finance Committee)

[Clerk's Note: There was a motion to enact on the floor from the July 8, 2003 meeting.]

President Sprague called for public comment.

The following people spoke in favor of Ordinance 2003-27:

Rick Ross, 1505 Kittiwake Court, Kenai, AK
David Gilbreath, PO Box 237, Soldotna, AK

The following person spoke in opposition to Ordinance 2003-27:

Ruby Kime, Alice Avenue, Ninilchik, AK

(Tape 3, 1850)

MOTION: Merkes moved to suspend the rules and extend the legislative deadline by one half hour to Midnight.

MOTION PASSED: Unanimous.

The following people spoke in favor of Ordinance 2003-27:

John Williams, 605 Candlelight Drive, Kenai, AK
Susan Caswell, PO Box 3238, Soldotna, AK
Cliff Baker, 605 Swires Drive, Kenai, AK
Jim Zirul, 220 Spur View Drive, Kenai, AK
Doug Worley, (no address provided)
Diana Zirul, 220 Spur View Drive, Kenai, AK
Marcia Beauchamp, PO Box 2554, Soldotna, AK

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

MOTION TO ENACT PASSED: Unanimous.

(Tape 3, 2640)

Ordinance 2003-28: Authorizing the Negotiated Sale at Fair Market Value of a 6 Acres± Parcel Located in the Beluga Area to Unocal (Mayor) (Referred to Lands Committee)

MOTION:

Martin moved to enact Ordinance 2003-28.

President Sprague called for public comment.

The following people spoke in opposition to Ordinance 2003-28:

Bart Garber, CEO of Tyonek Native Corporation

Mike Rood, 2701 Jefford Place, Anchorage, AK

The following person spoke in favor of Ordinance 2003-28:

Bob Shipley, PO Box 196247, Anchorage, AK

(Tape 4, 245)

Having reached the mandatory adjournment time of 12:00 a.m., the meeting was recessed and scheduled to reconvene at 9:00 a.m. on Wednesday, August 6, 2003.

CALL TO ORDER

The Regular Meeting of the Kenai Peninsula Borough Assembly was reconvened on August 6, 2003, in the Borough Assembly Chambers, Soldotna, Alaska. President Sprague called the meeting to order at 9:00 a.m.

There were present:

Pete Sprague, Presiding

John Davis

Paul Fischer

Betty Glick

Ron Long

Milli Martin

Chris Moss

Gary Superman

comprising a quorum of the assembly.

Absent:

Grace Merkes (excused)

Also in attendance were:

Ed Oberts, Assistant to the Mayor

Colette Thompson, Borough Attorney

Sherry Biggs, Deputy Borough Clerk

Johni Blankenship, Administrative Assistant, Clerk's Office

[Clerk's Note: A motion to enact Ordinance 2003-28 was on the floor from the previous evening. Mr. Shipley continued his testimony on Ordinance 2003-28.]

(Tape 4, 280)

Assembly Member Martin asked Mr. Shipley about monofill usage in Alaska and the Lower 48 States. Mr. Shipley explained the composition of the lined pits.

Assembly Member Superman asked if Unocal would be affected if action on Ordinance 2003-28 was postponed. Mr. Shipley said he would like to research Envirotech's proposal. Mr. Shipley explained Unocal's current disposal method of grinding the materials and injecting them into abandoned wells.

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

(Tape 4, 645)

MOTION:

Martin moved to amend Ordinance 2003-28 as follows:

Second Whereas to read, "the subject land is classified heavy industrial by KPB Assembly Resolution 2003-085; and"

Third Whereas to read, "Union Oil Company of California (UNOCAL) has submitted an application to purchase Tract D2, Beluga Terrace Subdivision, Addition No. 4 [3, KPB PRELIMINARY PLAT NO. 2003-130] for use as a monofill site; and"

Final Whereas to read, "the KPB Planning Commission as its regularly scheduled meeting of July 28, 2003 recommended enactment by unanimous consent;"

Section 1 to read, "That the Assembly finds that selling Tract D2, Beluga Terrace Subdivision, Addition No. 4 [3, KPB PRELIMINARY PLAT NO. 2003-130] to Union Oil Company of California...."

Section 1 (1) (C) to read, "The purpose of the KPB 17.10.110 advertising requirement is to notify the public of an opportunity to purchase or lease KPB land and advertising this sole source sale [LEASE] to UNOCAL will not serve a useful purpose."

Section 2. to read, "Based on the foregoing, the mayor is hereby authorized, pursuant to KPB 17.10.100 (I), to sell the land described in Section 1 above to UNOCAL for \$40,000 subject to the terms..."

MOTION TO AMEND PASSED:

Without objection.

MOTION: Superman moved to postpone Ordinance 2003-28 until the November 4, 2003 Assembly Meeting.

MOTION TO POSTPONE PASSED: Unanimous.

(Tape 4, 871)

Ordinance 2003-29: Authorizing the Lease of Tract C of ITC Anchor Point Subdivision to Kachemak Gun Club, Inc. at Less than Market Value (Mayor) (Referred to Lands Committee)

MOTION: Martin moved to enact Ordinance 2003-29.

[Clerk's Note: Public testimony was provided at the previous evening's meeting.]

Assembly Member Martin asked Mr. Ostrander to explain why this negotiation was a lease versus a sale. Mr. Ostrander stated with a lease the borough retained some control over the usage.

MOTION: Martin moved to amend Ordinance 2003-29 as follows:

Insert a new 11th Whereas to read, "Whereas, the Kachemak Gun Club has expressed an interest in purchasing the parcel and will be making substantial improvements to the parcel and the borough is willing to consider a negotiated sale of the parcel once the Interagency Land Management Transfer has been removed by the Alaska Department of Transportation /Public Facilities; and"

MOTION TO AMEND PASSED: Without objection.

MOTION: Martin moved to amend the Final Whereas to read, "the KPB Planning Commission at its regularly scheduled meeting of July 14, 2003 recommended enactment by unanimous vote;"

MOTION TO AMEND PASSED: Without objection.

Assembly Member Martin thanked the assembly for their indulgence last evening in allowing the citizens from Homer to provide their testimony at that time.

MOTION TO ENACT AS AMENDED PASSED: Unanimous.

(Tape 4, 1115)

Ordinance 2003-31: Placing an Advisory Proposition on the Ballot Asking the Voters Whether the Borough's Exercise of the Power to Provide Transportation

**Systems on an Areawide Basis Within the Borough Should Be Affirmed (Glick)
(Referred to Policies and Procedures Committee)**

MOTION: Glick moved to enact Ordinance 2003-31.

President Sprague called for public comment.

The following people spoke in opposition to Ordinance 2003-31:

Jennifer Beckmann, PO Box 3237, Kenai, AK
Dick Troeger, 372 Lupine Street, Soldotna, AK

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

Assembly Member Glick clarified the purpose of the ordinance in repealing transportation powers.

MOTION: Glick moved to amend Ordinance 2003-31 as follows:

Section 2 Proposition language to read, “Shall [THE ACTION TAKEN BY THE KENAI PENINSULA BOROUGH ASSEMBLY IN ADOPTING] KPB Chapter 13.10 providing funding for transportation systems in the borough, be repealed [AFFIRMED]? This is an advisory proposition.”

Section 3 to read, “That Section 1 of this ordinance shall take effect if the proposition in Section 2 above is [NOT] approved by a majority of the qualified voters voting on the issue, provided that repeal of KPB Chapter 13.10 shall have no effect upon the use of funds appropriated for transportation purposes prior to approval of the proposition.”

(Tape 4, 1780)

Assembly Member Fischer asked for an explanation on how an advisory vote could automatically repeal a chapter in the borough code. Borough Attorney Thompson said it was advisory in the sense that it did not prohibit the assembly from future actions.

Assembly Member Martin spoke in favor of the ordinance and expressed her interest in hearing from the voters on this issue. Ms. Martin thought KPB Chapter 13.10 should not automatically be repealed based on the October election, but should come to the assembly as an ordinance to repeal that chapter of the code if the election results warranted it.

MOTION TO AMEND PASSED: Without objection.

MOTION: Martin moved to amend Ordinance 2003-31 as follows:

[SECTION 1. THAT KPB CHAPTER 13.10 IS HEREBY REPEALED.]

And to renumber the remaining sections accordingly.

Assembly Member Davis spoke in opposition to the amendment and to the ordinance in general.

Assembly Member Long spoke in opposition to amendment.

Assembly Member Moss spoke in favor of the ordinance.

Assembly Member Superman spoke in opposition to the ordinance.

VOTE ON MOTION TO AMEND:

Yes: Martin, Superman, Sprague
No: Davis, Glick, Fischer, Long, Martin
Absent: Merkes
MOTION TO AMEND FAILED: 3 Yes, 5 No, 1 Absent

Assembly Member Long spoke in opposition of Ordinance 2003-31.

VOTE ON MOTION TO ENACT AS AMENDED:

Yes: Fischer, Glick, Martin, Moss
No: Davis, Long, Superman, Sprague
Absent: Merkes
MOTION TO ENACT AS AMENDED FAILED: 4 Yes, 4 No, 1 Absent

UNFINISHED BUSINESS (Postponed Items)

(Tape 4, 2780)

Resolution 2003-070: Authorizing Award of Contract for Nikiski Emergency Escape Route Upgrade and Paving (Mayor) (Referred to Finance Committee)

[Clerk's Note: There was a motion to adopt on the floor from the July 8, 2003 meeting.]

President Sprague called for public comment with none being offered.

MOTION: Moss moved to postpone Resolution 2003-070 until the August 19, 2003 assembly meeting.

MOTION TO POSTPONE PASSED: Without objection.

NEW BUSINESS

(Tape 4, 2830)

Resolution 2003-087: Providing for the Submission to the Voters of a Proposition Authorizing Areawide Authority of the Kenai Peninsula Borough to Fund Services Provided by the Alaska Challenger Center for Space Science Technology, Inc. (Glick) (Referred to Policies and Procedures Committee)

MOTION: Glick moved to adopt Resolution 2003-087.

President Sprague called for public comment.

The following people spoke in favor of Resolution 2003-087:

John Williams, 306 Candlelight Drive, Kenai, AK

Jim Golden, 424 Diane Lane, Soldotna, AK

Cliff Baker, 605 Squires Drive, Kenai, AK

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

MOTION: Long moved to amend Resolution 2003-087 as follows:

Title to read, “A Resolution Providing for Submission to the Voters of a Proposition Authorizing Areawide Authority of the Kenai Peninsula Borough to Fund Service Provided by [THE ALASKA CHALLENGER CENTER FOR SPACE SCIENCE TECHNOLOGY, INC.] Scientific, Technological, and Skills Training Organizations and Institutions”

First Whereas to read, “the Alaska Challenger Center for Space Science Technology, Incorporated, the Alaska Sea Life Center, the Alaska Vocational and Technical Institute and other [A] nonprofit 501 (C)(3) corporations were [WAS] conceived to [MEMORIALIZE THOSE ASTRONAUTS LOST IN THE CHALLENGER SPACE SHUTTLE DISASTER AND CREATED BY THE UNITED STATES CONGRESS TO] and advance technologic and scientific education of and provide trade skills to our children; and”

Second Whereas to read, “many people of the State of Alaska and the Kenai Peninsula Borough supported the construction and operation of [THIS] these learning centers for supplemental education of children and adults in the areas of math, science, technology, teacher training, trade skills and interpersonal communications; and”

Third Whereas to read, “[MORE THAN \$9 MILLION] significant investment in federal , state, organizational and individual funds have been spent of building and operating [THE FACILITY] these facilities [IN THE PAST FIVE YEARS] ,but reduced federal and/or state support threatens operations budgets and programs; and”

Seventh Whereas to read, “the proposed mill rate for this program would not exceed [1.10 MILL (ONE TENTH OF A MILL)] 0.20 mill (two tenths of a mill) unless authorized by the assembly by ordinance;”

The proposition language in Section 1 to read:

“Shall the Kenai Peninsula Borough have areawide authority to provide funds to [THE ALASKA CHALLENGER CENTER FOR SPACE SCIENCE TECHNOLOGY, INC. EDUCATIONAL] organizations and institutions other than the Kenai Peninsula Borough School District and the Kenai Peninsula college to help pay operational expenses for technologic, [AND] science and skills programs offered within the borough for public purposes? It is intended that the total annual funding may not exceed the amount that would be raised by the equivalent of an areawide tax levy on [ONE] two-tenths [0.10] 0.20 of a mill.”

(Tape 5, 100)

Assembly Member Moss spoke in opposition to the amendment and the resolution. Mr. Moss was concerned the school district had not participated in this funding request.

Assembly Members Martin and Glick spoke in favor of the amendment and the resolution.

Assembly Member Superman spoke in opposition to the amendment and the resolution.

VOTE ON MOTION TO AMEND:

Yes: Glick, Long, Martin, Sprague
No: Davis, Fischer, Moss, Superman
Absent: Merkes

MOTION TO AMEND FAILED: 4 Yes, 4 No, 1 Absent

MOTION:

Fischer moved to table Resolution 2003-087.

(Tape 5, 720)

VOTE ON MOTION TO TABLE:

Yes: Fischer, Long, Martin
No: Davis, Glick, Moss, Superman, Sprague
Absent: Merkes

MOTION TO TABLE FAILED: 3 Yes, 5 No, 1 Absent

VOTE ON MOTION TO ADOPT AS AMENDED:

Yes: Davis, Glick, Sprague
No: Fischer, Long, Martin, Moss, Superman
Absent: Merkes

MOTION TO ADOPT AS AMENDED FAILED: 3 Yes, 5 No, 1 Absent

(Tape 5, 780)

Petition to vacate a portion of Cohoe Lake Drive and associated utility easements, dedicated by Cohoe Lakes Subdivision (Plat KN 1430); within Section 22, Township 3 North, Range 12 West, Seward Meridian, Alaska; and within the Kenai Peninsula Borough; KPB File 2003-135; Location: West of Cohoe Loop in Kasilof (Referred to Lands Committee)

[Clerk's Note: The Planning Commission approved the referenced vacation at its regularly scheduled July 14, 2003 meeting by a majority vote of 8 yes, 2 no, 2 absent and 1 vacant seat.]

With no motion offered by the assembly, the action of the Planning Commission was upheld.

PUBLIC COMMENT AND PRESENTATIONS

(Tape 5, 850)

John Williams, 306 Candlelight Drive, Kenai, AK, thanked the assembly for taking the time to examine the funding issues of the Challenger Center. Mr. Williams said there may be very serious ramifications for the Center. Mr. Williams stated the Challenger Board of Directors had never discussed raising admission fees for out of area participants.

ASSEMBLY MEETING AND HEARING ANNOUNCEMENTS

(Tape 5, 925)

- August 19, 2003 Regular Assembly Meeting Soldotna
- August 20, 2003 Board of Adjustment Hearing Soldotna 9:00 a.m.

ASSEMBLY COMMENTS

(Tape 5, 940)

Assembly Member Fischer requested an excused absence for the August 19, 2003 meeting. President Sprague granted the request.

Assembly President Sprague thanked former Finance Director Jeff Sinz for his service to the borough and wished him well in his future endeavors at the Municipality of Anchorage.

ADJOURNMENT

(Tape 5,1010)

With no further business to come before the assembly, President Sprague adjourned the meeting at 11:05 a.m. on August 6, 2003.

I certify the above represents accurate minutes of the Kenai Peninsula Borough Assembly meeting of August 5, 2003, and its continuation on August 6, 2003.

Linda S. Murphy, Borough Clerk

Approved by Assembly: _____