
Kenai Peninsula Borough

Assembly Meeting Minutes

September 16, 2008 - 7:00 p.m.

Regular Meeting - Soldotna, Alaska

CALL TO ORDER

A Regular Meeting of the Kenai Peninsula Borough Assembly was held on September 16, 2008, in the Homer City Council Chambers, Homer, Alaska. President Merkes 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 John Springer from New Life Tabernacle.

There were present:

Grace Merkes, Presiding
Paul Fischer
Ron Long
Milli Martin

Bill Smith
Pete Sprague
Gary Superman

comprising a quorum of the assembly.

Absent:

Margaret Gilman (excused)
Gary Knopp (excused)

Also in attendance were:

Colette Thompson, Borough Attorney
Johni Blankenship, Borough Clerk
Shellie Morgan, Deputy Clerk

COMMITTEE REPORTS

Assembly Member Superman stated the Finance Committee met and discussed its agenda items.

(07:03:35)

Assembly Member Martin said the Lands Committee met and discussed its agenda item.

Assembly Vice President Sprague said the Policies and Procedures Committee met and discussed its agenda items.

Assembly Member Long said the Assembly held a Legislative Priorities Work Session and discussed the process for the upcoming State and Federal Priorities, he thanked Representative Paul Seaton, and Senator Gary Stevens' assistant Teri Robl, for attending.

(07:13:36)

APPROVAL OF AGENDA AND CONSENT AGENDA

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

President Merkes 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.

- September 2, 2008 Regular Assembly Meeting Minutes
- Resolution 2008-076: Authorizing Project Cost Allocation and Award of Contract for the Valley View Road Capital Improvement Project (Mayor) (Referred to Finance Committee)

[Clerk's Note: Technical amendments were made to Resolution 2008-076 as follows: The 6th whereas to read, "on the bid due date, September 11, 2008, two bids were received; and", the 7th whereas to read, "the low responsive bid from Ross Services is fair and reasonable, and the bidder is qualified to perform the work." the 8th whereas to read, "the total project costs being allocated to the Valley View Road Improvement Project of \$261,677.00 include design services, contract services, inter-departmental charges and contingencies; and" Section 2 to read, "That the mayor is authorized to award a contract to Ross Services in the amount of \$215,312.00 to perform the work associated with the Valley View Road Capital Improvement Project." Section 3 to read, "That the mayor is authorized to allocate total funding for the project in the amount of \$261,677.00 to account number 434.33950.C10VA,49999, for the Valley View Road Service Area Capital Improvement Project."]

- Resolution 2008-077: Supporting the Designation of the North and South Sterling Byways as National Scenic Byways (Martin, Smith) (Referred to Policies and Procedures Committee)
- Resolution 2008-078: Supporting a Comprehensive Beluga Wetland Hydrologic Study and in Support of Coastal Management Program Funding for the Study (Martin, Smith) (Referred to Policies and Procedures Committee)
- Ordinance 2008-19-20: Appropriating \$38,500 in the Equipment Replacement Fund for Purchase of a Heavy-Duty One-Ton Truck Replacement Vehicle for the Maintenance Department (Mayor) (Hearing on 10/14/08) (Referred to Finance Committee)

- Ordinance 2008-19-21: Authorizing the Purchase of Land from R. Dan Green Adjacent to Heritage Place at the Fair Market Value of \$380,000 with Consideration Consisting of Cash in the Amount of \$355,500 and the Conveyance to Mary L. Green of Real Property Located in Mackey Lake Station Subdivision with a Fair Market Value of \$24,500 on Behalf of Central Kenai Peninsula Hospital Service Area, Appropriating Funds for the Purchase, and Classifying the Parcel Purchased by the Borough (Mayor) (Hearing on 10/14/08) (Referred to Finance Committee)
- Approval of Election Boards for the October 7, 2008 Regular Municipal Election (Referred to Policies and Procedures)
- Confirming Appointments to Various Advisory Planning Commissions (Mayor) (Referred to Policies and Procedures Committee)

Anchor Point Advisory Planning Commission:

James Gladish	Seat A	Expires 09/30/11
Earl Breyfogle	Seat B	Expires 09/30/11
Brok Shafer	Seat C	Expires 09/30/11

Cooper Landing Advisory Planning Commission:

Theresa Norris	Seat C	Expires 09/30/11
Scott Davis	Seat D	Expires 09/30/11

Hope / Sunrise Advisory Planning Commission:

Vacant	Seat A	Expires 09/30/09
Todd Bureau	Seat E	Expires 09/30/11
Dave Scanlan	Seat F	Expires 09/30/11
Jim Skogstad	Seat G	Expires 09/30/11

Moose Pass Advisory Planning Commission:

Mark Stauble	Seat A	Expires 09/30/11
Vacant	Seat B	Expires 09/30/11
Ruth D'Amico	Seat C	Expires 09/30/11
Vacant	Seat F	Expires 09/30/11

[Clerk's Note: A technical amendment was made to the appointments to the Cooper Landing Advisory Planning Commission as follows: [THERESA NORRIS] Stacy Corbin]

President Merkes called for public comment with none being offered.

AGENDAS APPROVED AS AMENDED: Unanimous.

COMMENDING RESOLUTIONS AND PROCLAMATIONS

Mayor Williams presented Bill Sheldon, past Commander and current member of General Buckner Post 16, with a proclamation declaring September 19, 2008 as, “National POW/MIA Recognition Day”.

Mayor Williams recognized Margaret Pitman, Registered Nurse with South Peninsula Hospital for her outstanding services as a Registered Nurse.

PRESENTATIONS WITH PRIOR NOTICE

South Peninsula Hospital CEO Robert Letson, presented a quarterly report for the period ending June, 2008.

PUBLIC COMMENTS ON ITEMS NOT APPEARING ON THE AGENDA

President Merkes called for public comment.

The following person spoke regarding the Ladd Landing Lease and the effects of mining.

Bob Shavelson, PO Box 1498, Homer, AK

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

REPORTS OF COMMISSIONS AND COUNCILS - None.

MAYOR’S REPORT

- 1. Agreements and Contracts
 - a. Sole source approval to award contract to Rain Proof Roofing for Sears Elementary School Roof Repair
 - b. Authorization to award contract to Ampro Truck Sales for a Used Roll-Off Truck Purchase
 - c. Approval of contract to Alaska Investigations Dot Com for Investigation Services
 - d. Approval of contract to Segesser Surveys for Forest Glen #2 Surveying Project
 - e. Approval of contract with Rob Olchin for Appraisal Services
 - f. Approval of contract to Holden Company for Mountain View and North Star Wing Walls

- g. Approval to transfer ownership of 1997 Chevy 4x4 Pickup Truck from Central Emergency Services to Anchor Point Fire Service Area
2. Other
- a. Budget Revisions – July 2008
 - b. Budget Revisions - August 2008
 - c. Revenue Expenditure Report – July 2008
 - d. Revenue Expenditure Report – August 2008

ITEMS NOT COMPLETED FROM PRIOR AGENDA - None.

PUBLIC HEARING ON ORDINANCES

(07:49:55)

Ordinance 2008-19-14: Accepting and Appropriating a State Grant in the Amount of \$26,500 for the South Kenai Peninsula Hospital Service Area for Diagnostic Hospital Equipment (Mayor) (Referred to Finance Committee)

MOTION: Superman moved to enact Ordinance 2008-19-14.

President Merkes called for public comment with none being offered.

MOTION TO AMEND: Superman moved to amend Ordinance 2008-19-14 as follows:

The 5th whereas to read, “at its regular meeting on August 14, 2008, the Service Area Board of Directors recommended acceptance of the grant; and”

MOTION TO AMEND PASSED: Unanimous.

VOTE ON MOTION TO ENACT AS AMENDED:

Yes: Fischer, Long, Martin, Smith, Sprague, Superman, Merkes

No: None

Absent: Gilman, Knopp

MOTION TO ENACT AS AMENDED PASSED: 7 Yes, 0 No, 2 Absent

(07:51:59)

Ordinance 2008-19-15: Appropriating \$367,694.73 to the Special Assessment Fund for Moose Range Meadows South Subdivision Natural Gas Line Utility Special Assessment District (Mayor) (Referred to Finance Committee)

MOTION: Superman moved to enact Ordinance 2008-19-15.

President Merkes called for public comment with none being offered.

MOTION TO AMEND: Superman moved to amend Ordinance 2008-19-15 as follows:

The 3rd whereas to read, “the Resolution of Necessity for the Moose Range Meadows South special assessment district, Resolution 2008-066 was adopted at the August 19, 2008, assembly meeting; and”

MOTION TO AMEND PASSED: Unanimous.

VOTE ON MOTION TO ENACT AS AMENDED:

Yes: Fischer, Long, Martin, Smith, Sprague, Superman, Merkes

No: None

Absent: Gilman, Knopp

MOTION TO ENACT AS AMENDED PASSED: 7 Yes, 0 No, 2 Absent

(07:53:59)

Ordinance 2008-19-17: Authorizing the Acquisition of Certain Real Property at Mile 26.5 Kenai Spur Hwy for Nikiski Fire Station No. 2 and Appropriating Funds (Mayor) (Referred to Finance Committee)

MOTION: Superman moved to enact Ordinance 2008-19-17:

President Merkes called for public comment with none being offered.

MOTION TO AMEND: Superman moved to amend Ordinance 2008-19-17 as follows:

The title to read, “An Ordinance Authorizing the Acquisition of Certain Real Property at Mile 26.5 Kenai Spur Hwy for Nikiski Fire Station No. 2 [AND APPROPRIATING FUNDS]”

The 5th whereas to read, “it is anticipated that Nikiski Fire Service Area will require [AN APPROXIMATELY 4-ACRE PORTION OF THE PROPERTY FOR A FIRE STATION, AND THE REMAINING LANDS CAN BE PROPERLY MANAGED FOR FUTURE USE OR DISPOSAL BY LAND MANAGEMENT] the entire 10.61-acre

parcel for Station #2 use; and”

MOTION TO AMEND PASSED:

Unanimous.

MOTION TO AMEND:

Superman moved to amend Ordinance 2008-19-17 as follows:

Section 6 to read, “That [THE AMOUNT OF \$155,000.00 IS HEREBY APPROPRIATED FROM THE LAND TRUST FUND FUND BALANCE TO LAND TRUST FUND CAPITAL PROJECT FUND ACCOUNT NO. 250.21210.9NIKF.48610 FOR THE PURCHASE OF THE REAL PROPERTY AND ASSOCIATED COSTS.] all expenditures for this acquisition shall be charged to Nikiski Fire Service Area Capital Project account 441.5111.09261.48610.”

Delete Section 7, “[SECTION 7. THAT THE LAND TRUST FUND SHALL BE REIMBURSED BY NIKISKI FIRE SERVICE AREA CAPITAL PROJECT ACCOUNT 441.5111.09216.48610 BASED ON THE VALUE OF LAND TO BE USED BY NFSA DELINEATED BY SUBDIVISION TO BE CONDUCTED DURING SITE PLANNING PHASE.]”

Section 8 to read, “[SECTION 8] Section 7. That this ordinance shall take effect immediately upon its adoption.

MOTION TO AMEND PASSED:

Unanimous.

MOTION TO AMEND:

Superman moved to amend Ordinance 2008-19-17 as follows:

The 7th whereas to read, “ the Nikiski Fire Service Area Board at its meeting of August 13, 2008 recommended enactment; and”

The final whereas to read, “the KPB Planning Commission at its regularly scheduled meeting of August 25, 2008 recommended enactment by unanimous consent.”

MOTION TO AMEND PASSED:

Unanimous.

VOTE ON MOTION TO ENACT AS AMENDED:

Yes: Fischer, Long, Martin, Smith, Sprague,
Superman, Merkes
No: None
Absent: Gilman, Knopp
MOTION TO ENACT AS AMENDED PASSED: 7 Yes, 0 No, 2 Absent

(08:10:05)

Ordinance 2008-19-18: Accepting and Appropriating a Grant of \$1,369,125 from the Natural Resource Conservation Service and Appropriating a Local Match of \$456,375 for Conducting a Voluntary Buyout Program in the Old Mill Subdivision Located in the Seward Area (Mayor) (Referred to Finance Committee)

Ordinance 2008-19-18 (Mayor)Substitute: An Ordinance Accepting and Appropriating a Grant of \$1,369,125 from the Natural Resources Conservation Service and \$228,187.50 from the Division of Homeland Security and Emergency Management and Appropriating A Local Match of \$198,187.50 and In-Kind Service of \$30,000 for Conducting a Voluntary Buyout Program in the Old Mill Subdivision Located in the Seward Area

[Clerk's Note: There was a motion to enact Ordinance 2008-19-18 on the floor from September 2, 2008.]

President Merkes called for public comment with none being offered.

MOTION TO AMEND: Superman moved to amend Ordinance 2008-19-18 by substitution.

VOTE ON MOTION TO AMEND BY
SUBSTITUTION:

Yes: Fischer, Long, Martin, Smith, Sprague,
Superman, Merkes
No: None
Absent: Gilman, Knopp
MOTION TO AMEND PASSED: 7 Yes, 0 No, 2 Absent

President Merkes passed the gavel to Vice President Sprague and spoke in opposition to Ordinance 2008-19-18. Vice President Sprague returned the gavel to President Merkes.

MOTION TO AMEND: Long moved to amend Ordinance 2008-19-18 (Mayor) Substitute as follow:

The 16th whereas to read, "at its meeting of September 15, 2008, the Seward-Bear Creek Flood Service Area Board recommended enactment; and"

MOTION TO AMEND PASSED: Unanimous.

VOTE ON MOTION TO ENACT SUBSTITUTE:

Yes: Long, Martin, Smith, Sprague, Superman

No: Fischer, Merkes

Absent: Gilman, Knopp

MOTION TO ENACT SUBSTITUTE PASSED: 5 Yes, 2 No, 2 Absent

(08:37:59)

Ordinance 2008-19-19: Appropriating \$120,000 from South Kenai Peninsula Hospital Service Area Capital Project Fund for the Purchase of Several Capital Equipment Items Not Previously Budgeted (Mayor) (First of Two Hearings) (Referred to Finance Committee)

MOTION: Superman moved to enact Ordinance 2008-19-19.

President Merkes called for public comment with none being offered.

MOTION TO AMEND: Superman moved to amend Ordinance 2008-19-19 as follows:

The title to read, “An Ordinance Appropriating [~~\$120,000~~] \$220,000 from South Kenai Peninsula Hospital Service Area Capital Project Fund for the Purchase of Several Capital Equipment Items Not Previously Budgeted”

The first whereas to read, “South Peninsula Hospital is in need of acquiring [~~THREE~~] four capital equipment items totaling [~~\$120,000~~] \$220,000, which were not previously budgeted; and”

The second whereas to read, “the [~~THREE~~] four capital equipment items are an anesthesia monitor costing \$16,000, sleep lab equipment costing \$30,000, [~~AND~~] radiology satellite equipment costing \$74,000, and CPSI computer server along with related software/hardware and workstations costing \$100,000; and”

The fifth whereas to read, “the South Kenai Peninsula Hospital Service Area board at its August 14, 2008 and September 11, 2008 meeting authorized the use of service area

funds to purchase the requested equipment items;”

Section 1 to read, “That the funds in the amount of [\$120,000] \$220,000 are appropriated from the South Kenai Peninsula Hospital Service Capital Project Fund, fund balance to the following accounts as follows: 491.81211.9ANES.48516 Anesthesia Monitor \$16,000 | 491.81211.9SLPE.48516 Sleep Lab Equipment \$ 3 0 , 0 0 0 | 491.81211.9SATE.48516 Radiology Satellite Equipment \$ 7 4 , 0 0 0 | 491.81211.9COMP.48120 Computer Equipment and related items \$100,000”

MOTION TO AMEND PASSED:

Unanimous.

VOTE MOTION TO ENACT AS AMENDED:

Yes:

Fischer, Long, Martin, Smith, Sprague, Superman, Merkes

No:

None

Absent:

Gilman, Knopp

MOTION TO ENACT PASSED AS AMENDED:

7 Yes, 0 No, 2 Absent

MOTION TO RESCIND ENACTMENT:

Sprague moved to resend enactment of Ordinance 2008-19-19.

VOTE ON MOTION TO RESCIND:

Yes:

Fischer, Long, Martin, Smith, Sprague, Superman, Merkes

No:

None

Absent:

Gilman, Knopp

MOTION TO RESCIND PASSED:

7 Yes, 0 No, 2 Absent

[Clerk’s Note: Ordinance 2008-19-19 was originally set for an additional hearing on 10/14/08; therefore, the motion to enact was rescinded in order to comply with the public hearing requirements.]

MOTION TO POSTPONE:

Sprague moved to postpone Ordinance 2008-19-19 until the next scheduled hearing date of October 14, 2008.

VOTE ON MOTION TO POSTPONE:

Yes: Fischer, Long, Martin, Smith, Sprague,
Superman, Merkes
No: None
Absent: Gilman, Knopp
MOTION TO POSTPONE PASSED: 7 Yes, 0 No, 2 Absent

(08:52:44)

Ordinance 2008-26: Authorizing Conveyance of 0.49 Acres More or Less to the City of Homer (Mayor) (Referred to Lands Committee)

MOTION: Martin moved to enact Ordinance 2008-26.

President Merkes called for public comment.

The following person spoke in opposition to Ordinance 2008-26.

Rika Mouw, PO Box 4084, Homer, AK

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

MOTION TO POSTPONE: Martin moved to postpone Ordinance 2008-26 until November 18 , 2008.

VOTE ON MOTION TO POSTPONE:

Yes: Fischer, Long, Martin, Smith, Sprague,
Superman, Merkes
No: None
Absent: Gilman, Knopp
MOTION TO POSTPONE PASSED: 7 Yes, 0 No, 2 Absent

(09:01:40)

Ordinance2008-27: Allowing for a Late-Filed Real Property Tax Exemption for the Increase in Assessed Value of Improvements Located Within 150 Horizontal Feet from the Mean High Tide Line or Ordinary High Water Line of the Rivers and Streams Listed in KPB 5.14.010 Directly Attributable to Alteration of the Natural Features of the Land, or New Maintenance, Repair or Renovation of an Existing Structure, and That Meets the Criteria for a Fish Habitat and Restoration Project Described in KPB 5.14.040, for Properties Exceeding the \$300,000 Senior Citizen Exemption Where Construction Began in 2004, 2005, 2006 or 2007 (Mayor) (Referred to Finance Committee)

MOTION: Superman moved to enact Ordinance 2008-27.

President Merkes called for public comment with none being offered.

VOTE ON MOTION TO ENACT:

Yes: Fischer, Long, Martin, Smith, Sprague,
Superman, Merkes
No: None
Absent: Gilman, Knopp
MOTION TO ENACT PASSED: 7 Yes, 0 No, 2 Absent

(09:05:05)

Ordinance 2008-28: Authorizing the General Law Cities in the Kenai Peninsula Borough to Levy and Collect Sales Taxes on Nonprepared Food Items (Mayor) (Referred to Finance Committee)

[Clerk's Note: There was a motion to enact Ordinance 2008-28 on the floor from September 2, 2008.]

President Merkes called for public comment.

The following person spoke in opposition to Ordinance 2008-28.

James Price, 49185 Island Lake Rd., Nikiski, AK

The following people spoke in support of Ordinance 2008-28.

Dick Wyland, PO Box 247, Seldovia, AK
Peter Miccichi, PO Box 1554, Soldotna, AK
John Lucking, 327 Crown Nest Court, Soldotna, AK
Melanie Lewis, 46315 Woodwill Dr., Kenai, AK
Dennis Novak, PO Box 2777, Homer, AK

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

MOTION TO AMEND: Martin moved to amend Ordinance 2008-28 as follows:

Insert a new whereas between the fifth and sixth whereas to read, "at its meeting of September 10, 2008 the Seldovia City Council adopted Resolution 09-03 in support of Kenai Peninsula Borough Ordinance 2008-28; and

MOTION TO AMEND PASSED: Unanimous.

MOTION TO POSTPONE: Fischer moved to postpone Ordinance 2008-28 until October 14, 2008.

VOTE ON MOTION TO POSTPONE:

Yes: Fischer
No: Long, Martin, Smith, Sprague, Superman,
Merkes
Absent: Gilman, Knopp
MOTION TO POSTPONE FAILED: 1 Yes, 6 No, 2 Absent

President Merkes passed the gavel to Vice President Sprague and spoke in support of Ordinance 2008-28. Vice President Sprague returned the gavel to President Merkes.

VOTE ON MOTION TO ENACT AS AMENDED:

Yes: Long, Martin, Smith, Sprague, Superman,
Merkes
No: Fischer
Absent: Gilman, Knopp
MOTION TO ENACT AS AMENDED PASSED: 6 Yes, 1 No, 2 Absent

(09:40:50)

Ordinance 2008-29: Amending KPB 2.56.030 to Incorporate the Homer Non-Motorized Transportation and Trail Plan, the 2005 Homer Area Transportation Plan, and the Homer Town Center Plan into the City of Homer Comprehensive Plan (Mayor) (First of Two Hearings) (Referred to Policies & Procedures Committee)

MOTION: Sprague moved to enact Ordinance 2008-29.

President Merkes called for public comment with none being offered.

MOTION TO POSTPONE: Sprague moved to postpone Ordinance 2008-29 until the next scheduled hearing date of October 14, 2008.

VOTE ON MOTION TO POSTPONE:

Yes: Fischer, Long, Martin, Smith, Sprague,
Superman, Merkes
No: None
Absent: Gilman, Knopp
MOTION TO POSTPONE PASSED: 7 Yes, 0 No, 2 Absent

Assembly Member Fischer gave notice of reconsideration on Ordinance 2008-28.

(09:43:22)

PUBLIC COMMENTS AND PUBLIC PRESENTATIONS

ASSEMBLY MEETING AND HEARING ANNOUNCEMENTS

The next meeting of the Kenai Peninsula Borough Assembly was scheduled for October 14, 2008, at 7:00 p.m. in the Borough Assembly Chambers, Soldotna, Alaska.

(09:43:42)

ASSEMBLY COMMENTS

Assembly Member Fischer thanked the City of Homer and stated that his notice to reconsider Ordinance 2008-28 was not done with animosity, it was his belief that the issue had been convoluted, and should be left as it was until after the election.

Assembly Member Superman thanked the City of Homer.

Assembly Member Martin thanked the City of Homer, and all of the members of the public who attended. She also noted the attendance of Dick Wyland and Tim Dillon. She stated Mr. Dillon had helped out considerably during the Arctic Winter Games, and had recently been hired as the new Seldovia City Manger. She then urged any Assembly Member able to attend the September 22-26, 2008, "Planning A Sustainable Future Work Shop" to do so. She then requested information regarding the Ladd Landing lease from the Administration for the October 14, 2008 Assembly Meeting.

Assembly Member Smith thanked the City of Homer for their hospitality and also thanked the Assembly for coming to Homer, he then stated that it would be nice to have a couple meetings a year in Homer.

Assembly Member Long thanked the City of Homer, then congratulated Mr Fischer and stated that it was done with no animosity, and said that he was sorry that the people who had thought they had the Assembly vote left before they realized there was legislative artifice that could be used to accomplish what you could not do legislatively.

Assembly Vice President Sprague thanked the City of Homer for their gracious hospitality, he then expressed his concerns regarding procedural moves.

Assembly President Merkes thanked the City of Homer, and stated the dinner was very nice. She also noted that she was impressed with the accomplishments made by Homer, with the Library, University and Hockey Rink and she hoped there would be support for the sports dome project in the Central Peninsula area.

ADJOURNMENT

With no further business to come before the assembly, President Merkes adjourned the meeting at 09:49 p.m.

I certify the above represents accurate minutes of the Kenai Peninsula Borough Assembly meeting of September 16, 2008.

Johni Blankenship, Borough Clerk

Approved by Assembly:_____