



Kenai Peninsula Borough

144 North Binkley Street
Soldotna, AK 99669

Meeting Minutes - Final

Assembly

Blaine Gilman, President

Brent Johnson, Vice President

Dale Bagley

Kelly Cooper

Willy Dunne

Brandii Holmdahl

Gary Knopp

Wayne Ogle

Stan Welles

Tuesday, September 6, 2016

6:00 PM

Assembly Chambers

CALL TO ORDER

PLEDGE OF ALLEGIANCE

INVOCATION

The invocation was given by Dr. Keith Hamilton from the Alaska Christian College.

ROLL CALL

[Clerk's Note: Assembly Member Holmdahl attended via teleconference.]

Present: 8 - Dale Bagley, Kelly Cooper, Willy Dunne, President Blaine Gilman, Brandii Holmdahl, Vice President Brent Johnson, Gary Knopp, and Wayne Ogle

Excused: 1 - Stan Welles

Also present were:

Colette Thompson, Borough Attorney

Johni Blankenship, Borough Clerk

Michele Turner, Deputy Borough Clerk

COMMITTEE REPORTS

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

[Clerk's Note: The assembly went into executive session to for the purpose of obtaining legal advice from the attorney, a matter required to be confidential in accordance with attorney-client privilege. Additional parties included in the executive session were: Mayor Mike Navarre, Chief of Staff Paul Ostrander, Borough Attorney Colette Thompson, Assistant Borough Attorney Amy Fenske and Borough Clerk Johni Blankenship.]

Assembly Member Johnson stated the Lands Committee met and discussed its agenda item.

Assembly Member Knopp stated the Policies and Procedures Committee met and discussed its agenda items.

Assembly Member Ogle stated the Legislative Committee met and discussed its agenda item.

APPROVAL OF AGENDA AND CONSENT AGENDA

Johnson moved to approve the agenda and consent agenda.

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

[KPB-873](#) August 23, 2016 Regular Assembly Meeting Minutes
approved.

The following public hearing items met the required conditions of KPB 22.40.110 and were added to the consent agenda:

[2016-19-04](#) An Ordinance Accepting and Appropriating \$22,485.23 from the State of Alaska Department of Military and Veteran Affairs, Division of Homeland Security and Emergency Management to Support the Activities of the Kenai Peninsula Borough Local Emergency Planning Committee (Mayor)

This Budget Ordinance was introduced and set for public hearing.

[2016-19-05](#) An Ordinance Appropriating \$30,000 from the Seward Bear Creek Flood Service Area Fund Balance to take Corrective Action on Sediment Management Under and Adjacent to Forest Road Bridge Spanning Lost Creek Near Seward Alaska (Mayor)

This Budget Ordinance was introduced and set for public hearing.

New Business

[2016-046](#) A Resolution Authorizing the Kenai Peninsula Borough to Issue South Kenai Peninsula Hospital Service Area General Obligation Refunding Bond in the Principal Amount not to Exceed \$3,000,000 to Refund Certain Outstanding South Kenai Peninsula Hospital Service Area General Obligation Bonds of the Borough, Fixing Certain Details of Such Bond and Authorizing the Sale of Such, and Providing for

Related Matters (Mayor)

This Resolution was adopted.

[2016-047](#) A Resolution Approving the Revised Salary Range Schedules for Appendix A Personnel (Mayor)

This Resolution was adopted.

[2016-048](#) A Resolution Approving an Amendment to the Standardized Fire Apparatus and Ambulance Manufacturers' Brands Policy to include All Kenai Peninsula Borough Fire Service Areas (Mayor)

This Resolution was adopted.

[2016-049](#) A Resolution Opposing the Selection of G-South as the Preferred Alternative for the Sterling Highway MP 45-60 Project and Supporting the Juneau Creek Alternative (Mayor)

This Resolution was adopted.

[2015-19-36](#) An Ordinance Recording Expenditures of \$1,192,674.66 Paid by the State of Alaska Department of Administration, Division of Retirement & Benefits on behalf of the Kenai Peninsula Borough toward the Borough's Unfunded PERS Liability (Mayor)

This Budget Ordinance was introduced and set for public hearing.

[2016-19-06](#) An Ordinance Accepting and Appropriating Funding from the State of Alaska in the Amount of \$348,300 for Community Purposes under the State's 2016/2017 Community Revenue Sharing Program (Mayor)

This Budget Ordinance was introduced and set for public hearing.

[2016-19-07](#) An Ordinance Appropriating \$700 for Costs of Printing and Disseminating Information about Ballot Propositions 3 and 4 Concerning the Proposed Sales Tax Cap Increase to \$1,000 and a Phase-Out of the Optional Senior Citizen Tax Exemption, to Ensure Compliance with Legal Restrictions on the Use of Borough Funds and Assets Relating to Ballot Propositions (Mayor)

This Budget Ordinance was introduced and set for public hearing.

[2016-34](#) An Ordinance Amending KPB Chapter 5.28, Procurement and Purchasing, to Allow Acceptance of Electronic Bids and Proposals (Mayor)

This Ordinance was introduced and set for public hearing.

[KPB-860](#) Petition to Vacate the South 752 feet (approximately) of the 60-foot wide Fish Street Right-of-Way and the West 190 feet of the 60-foot wide Brush Way Right-of-Way as dedicated on Nikishka Subdivision No. 2, Plat KN-1400. The Rights-of-Way being vacated are Partially Constructed and Located within the SW 1/4 NE 1/4 of Section 1, Township 7 North, Range 12 West, Seward Meridian, Alaska and within the Kenai Peninsula Borough; KPB File 2016-084.

[Clerk's Note: The Planning Commission approved the referenced vacation by unanimous consent during its regularly scheduled meeting of July 22, 2016.]

approved.

Approval of the Agenda and Consent Agenda

President Gilman called for public comment with none being offered.

The motion to approve the agenda and consent agenda as amended carried by the following vote:

Yes: 8 - Bagley, Cooper, Dunne, Gilman, Holmdahl, Johnson, Knopp, and Ogle

COMMENDING RESOLUTIONS AND PROCLAMATIONS

[KPB-863](#) Mayor's Proclamation Declaring September, 2016 as "Hunger Action Month"

[Clerk's Note: Mayor Navarre presented the Proclamation to Linda Swarner from the Kenai Peninsula Food Bank.]

PRESENTATIONS WITH PRIOR NOTICE

[KPB-871](#) Kenai Peninsula Borough School District Quarterly Report (10 minutes)

[Clerk's Note: Sean Dusek, Superintendent and Joe Arness, Board President presented the school district's quarterly report to the assembly.]

[KPB-872](#) "15 Year Update on Alaska Christian College", Dr. Keith Hamilton, Alaska Christian College (10 minutes)

[Clerk's Note: Dr. Keith Hamilton gave a presentation to the assembly regarding Alaska Christian College.]

PUBLIC COMMENTS ON ITEMS NOT APPEARING ON THE AGENDA

President Gilman called for public comment.

Jessica Tenhoff, Homer addressed the assembly regarding oil and gas extraction companies and fracking on the peninsula.

Bob Thraves, Soldotna addressed the assembly regarding the marijuana Initiative Petition 2016-01 and a special election.

George Pierce, Kasilof addressed the assembly regarding the borough spending money on a special election.

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

MAYOR'S REPORT

1. Assembly Requests/Responses - None.
2. Agreements and Contracts
 - a. [KPB-864](#) Approval to Contract with University of Alaska Fairbanks to Complete a Mass/Sedimentation Study of the Service Area

presented.
 - b. [KPB-865](#) Authorization to Award Contract for ITB17-002 Central Peninsula Landfill Excavator to Totem Equipment and Supply, Anchorage, AK

presented.
3. Other
 - a. [KPB-866](#) Card Street Debris Removal – Reimbursement Approval

presented.
 - b. [KPB-867](#) Project Reports – June 30, 2016

presented.

ITEMS NOT COMPLETED FROM PRIOR AGENDA

None.

PUBLIC HEARINGS ON ORDINANCES

[2016-31](#) An Ordinance Amending Sections of KPB Chapter 5.18 to Update and Clarify the Borough Sales Tax Code, Including Changes to Several Provisions on Tax-Exempt Sellers and Taxable Sales and Services (Mayor)

Cooper moved to enact Ordinance 2016-31.

President Gilman called for public comments.

George Pierce, Kasilof spoke in opposition to Ordinance 2016-31.

Debbie Cary, Kasilof spoke in support of Ordinance 2016-31.

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

[Clerk's Note: Assembly Member Holmdahl declared a possible conflict as her father was an air taxi operator. President Gilman ruled a conflict did exist and Assembly Member Holmdahl abstained from discussion and voting on Ordinance 2016-31.]

Bagley moved to amend Ordinance 2016-31 to read:

Delete Section 6 in its entirety.

[SECTION 6. THAT KPB 5.18.240 IS HEREBY AMENDED BY ADDING A NEW SUBSECTION (F) AS FOLLOWS:

5.18.240. EXEMPTIONS/WAIVERS-EXEMPTIONS-RESALE CERTIFICATE.

...

F. A BUSINESS WITHIN THE BOROUGH THAT SELLS GOODS TO A BUSINESS LOCATED OUTSIDE THE BOROUGH FOR RESALE BY THAT BUSINESS OUTSIDE THE BOROUGH SHALL REPORT THE SALE AS A TAX-EXEMPT SALE FOR RESALE, REGARDLESS WHETHER THE BUYER HAS OBTAINED A RESALE CERTIFICATE FROM THE BOROUGH]

Amend Section 3 to read,

“5.18.200. Exemption/waivers-Exemptions.

A. The following classes of retail sales, services and rentals are exempt:

.....

11. Sales of passenger seat tickets by commercial airline. Air charter and air taxi sales are exempt;[. air charter and air taxi sales are exempt], however flightseeing tours that take off and return to the same airport or seaplane base on the same day are recreational sales not exempt under this section;]”

Section 17 to read,

“5.18.900. Definitions.

. . .

Q. “Recreational sales” means sales where the seller provides recreational services and rentals, except automobile rentals, to the buyer, either separately or in a combination, at an aggregate prices, includes, but not limited to guiding, charters, sightseeing tours, [flightseeing tours], outfitting or equipment rentals, instructional classes or lessons, and beauty or spa services [temporary lodging included with such sales].”

Assembly Member Johnson spoke in opposition to the amendment.

Bagley's motion to amend failed by the following vote:

Yes: 4 - Bagley, Dunne, Gilman, and Knopp

No: 3 - Cooper, Johnson, and Ogle

Abstain: 1 - Holmdahl

Dunne moved to amend Ordinance 2016-31.

Amend Section 3 to read,

"5.18.200. - Exemptions/waivers-Exemptions.

A. The following classes of retail sales, services and rentals are exempt: . . .

11. Sale of passenger seat tickets by an aircharter, air taxi, or commercial airline, [. air charter and air taxi sales are exempt]_, however flightseeing tours, ground-based wildlife viewing, sport fishing, hunting or any other good or services provided in combination with such flightseeing tours, that take off and return to the same airport or seaplane base on the same day are recreational sales not exempt under this section;-

Dunne's motion carried by the following vote:

Yes: 7 - Bagley, Cooper, Dunne, Gilman, Johnson, Knopp, and Ogle

Abstain: 1 - Holmdahl

Cooper moved to amend Ordinance 2016-31.

Section 1 to read,

“5.18.130. General-Seller-Liability to the borough-Successor liability- Corporate officer liability.

D. [the president and any officer, employee or agent of a corporation having] Any officers, employees, agents, members, managers, or partners of a corporation, limited liability company (LLC), limited liability partnership (LLP), partnership, or limited partnership that have control of, supervision of, or charged with the responsibility of filing sales tax returns or remitting sales taxes [IS] are personally liable for any unpaid [corporate] business entity sales taxes, penalties, interest, fees and costs accruing and unpaid to the borough. Dissolution of, or sale of, or other change in the form of the corporation, LLC, LLP, partnership, or limited partnership does not discharge this liability. The signature of any officer, member, manager, or partner on returns or negotiable instruments submitted in payment of taxes is prima facie evidence of their responsibility for making returns and payments.”

Cooper's motion to amend Ordinance 2016-31 carried by the following vote:

Yes: 7 - Bagley, Cooper, Dunne, Gilman, Johnson, Knopp, and Ogle

Abstain: 1 - Holmdahl

Cooper moved to amend Ordinance 2016-31.

Amend Section 10 by deleting paragraph A.3 as follows,

“5.18.450(A). Tax jurisdiction-Office location of seller.

[3. "physical presence" is as defined in kpb sales tax policy 95-02, copies of which are available in the finance department.]”

Cooper's motion to amend Ordinance 2016-31 carried by the following vote:

Yes: 8 - Bagley, Cooper, Dunne, Gilman, Holmdahl, Johnson, Knopp, and Ogle

The motion to enact as amended carried by the following vote:

Yes: 7 - Bagley, Cooper, Dunne, Gilman, Johnson, Knopp, and Ogle

Abstain: 1 - Holmdahl

UNFINISHED BUSINESS

Postponed Items

[2016-029](#)

A Resolution To Form the Eddy Hill Drive Road Improvement Assessment District and Proceed with the Improvement (Mayor)

[Clerk's Note: The motion to adopt was on the floor from the June 21, 2016 meeting.]

President Gilman called for public comments with none being offered.

Cooper moved to amend Resolution 2016-029.

Amend the eighth Whereas clause to read,

"WHEREAS, KPB 14.31.070(D) requires signatures of the owners of record of (a) at least 60 percent of the total number of parcels subject to assessment within the proposed district and (b) at least 60 percent in value of the property to be benefited, in order to be considered by the assembly for formation, and 77.14 percent of recorded owners have signed the petition, comprising [79.47] 78.63 percent in value of the 2016 certified assessed value of the property to be benefited; and"

Add a new tenth Whereas clause to read,

"WHEREAS, the summary of construction cost estimate is presented in the petition report based on the anticipated costs for a 2016 construction season and the RSA has confirmed with the engineering firm that the 2016 cost estimate is expected to remain valid for a 2017 construction season; and"

Amend Section 2 to read,

"SECTION 2. That pursuant to the requirements of KPB 14.31.090, this resolution is supported by the amended mayor's report, which is attached hereto and incorporated herein by reference and includes the petition report described in KPB 14.31.060, the RSA resolution to approve the petition report and recommend a borough match, a description of the current condition of the rights-of-way that are to be improved and a statement of the need for the proposed local improvement, and the method of financing the improvement."

Amend Section 4 to read,

"SECTION 4. That the boundaries of the RIAD for improving and paving the roadways set forth in the district map as Amended Mayor's Report Exhibit 4, page 8, and the properties legally described in the Estimate Assessment Roll as Mayor's Report Exhibit 4, pages 5 to 7, are hereby approved as comprising the RIAD."

Amend Section 6 to read,

"SECTION 6. That the attached Estimate Assessment Roll, Amended Mayor's Report Exhibit 4, pages 5 to 7, which includes properties within the district to be properly included and subject to an assessment of \$9,114.12 per parcel for the improvement is adopted."

Cooper's motion to amend Resolution 2016-029 carried by the following vote:

Yes: 8 - Bagley, Cooper, Dunne, Gilman, Holmdahl, Johnson, Knopp, and Ogle

The motion to adopt Resolution 2016-029 as amended carried by the following vote:

Yes: 8 - Bagley, Cooper, Dunne, Gilman, Holmdahl, Johnson, Knopp, and Ogle

2015-19-31 An Ordinance Appropriating \$637,988.40 to the Special Assessment Fund for the Eddy Hill Drive Road Improvement Assessment District (Mayor)

[Clerk's Note: The motion to enact was on the floor from the June 21, 2016 meeting.]

President Gilman called for public comment with none being offered.

Cooper moved to amend Ordinance 2015-19-31.

Amend the third Whereas clause to read,

"WHEREAS, the assembly adopted Resolution 2016-029 on [June 21] September 6, 2016 to form the Eddy Hill Drive Road Improvement Assessment District and proceed with the improvement; and"

Amend the fifth Whereas clause to read,

"WHEREAS, KPB 14.31.070(D)(b) requires signatures of the owners of record of at least 60 percent in value of the property to be benefited in the proposed district, and [79.47] 78.63 percent have signed the petition; and"

Cooper's motion to amend Ordinance 2015-19-31 carried by the following vote:

Yes: 8 - Bagley, Cooper, Dunne, Gilman, Holmdahl, Johnson, Knopp, and Ogle

The motion to enact Ordinance 2015-19-31 as amended carried by the following vote:

Yes: 8 - Bagley, Cooper, Dunne, Gilman, Holmdahl, Johnson, Knopp, and Ogle

PUBLIC COMMENTS AND PUBLIC PRESENTATIONS

President Gilman called for public comments with none being offered.

ASSEMBLY MEETING AND HEARING ANNOUNCEMENTS

September 12, 2016 Special Work Session with Governor Walker 1:30 PM
Assembly Chambers, Borough Administration Building

September 12, 2016 Funny River Community Meeting 6:00 PM
Funny River Community Center, 35850 Pioneer Avenue

September 13, 2016 Sterling Community Meeting 6:00 PM
Sterling Elementary School, 35096 Sterling Highway

September 20, 2016 Regular Assembly Meeting 6:00 PM Council Chambers, Homer City Hall, Homer,
Alaska

September 21, 2016 Health Care Task Force Meeting 6:30 PM Assembly Chambers, Borough
Administration Building

ASSEMBLY COMMENTS

Assembly Member Bagley shared that the Soldotna High School beat East High School at their last football game, which gave them a winning streak of 43 wins. Mr. Bagley stated that he was told that this was the fourth longest winning streak in the nation, but was interested to know if the other three were playing teams in their division or were they a small school division team beating a big school division team like the Stars.

Assembly Member Knopp stated the Soldotna High School Football team was a team to be proud of. He stated their team had some excellent coaching happening and excellent players as well.

Assembly Member Ogle stated the administration did an excellent job with Ordinance 2016-31. He stated he attended the AK LNG meeting in Nikiski last week and felt there was a lot of angst in the room, but Mayor Navarre's and Larry Persily's attendance helped alleviate some of that. He also thanked the Mayor for bringing forward legislation supporting Juneau Creek Alternative Sterling Highway project, as he felt that helped a lot of people.

Assembly Member Cooper encouraged everyone to review the community meeting schedule on the borough's website, as the assembly appreciates public input and participation.

Assembly Member Johnson stated the community meetings were two-part; one to select legislative priorities and two to allocate community revenue sharing funds. He stated that the community meeting in K-Beach was only addressing community revenue sharing.

INFORMATIONAL MATERIALS AND REPORTS

None.

NOTICE OF NEXT MEETING AND ADJOURNMENT

With no further business to come before the assembly, President Gilman adjourned the meeting at 8:18 p.m.

I certify the above represents accurate minutes of the Kenai Peninsula Borough Assembly meeting of September 6, 2016.

Johni Blankenship, MMC, Borough Clerk

Approved by the Assembly: _____