



## **KENAI PENINSULA BOROUGH**

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**MIKE NAVARRE**  
**BOROUGH MAYOR**

### **MEMORANDUM**

**TO:** Dale Bagley, Assembly President  
Members, Kenai Peninsula Borough Assembly

**THRU:** Mike Navarre, Borough Mayor *MN*  
Tom Anderson, Director of Assessing *Tom*

**FROM:** Marie Payfer, Special Assessment Coordinator *MP*

**DATE:** August 20, 2015

**SUBJECT:** Resolution 2015-038, A Resolution To Form the District and Proceed with the Improvement of the Diamond View Estates Utility Special Assessment District for a Natural Gas Main Line

This resolution to form the Diamond View Estates Utility Special Assessment District (USAD) and proceed with the improvement approves the formation of the USAD and authorizes the mayor to proceed with the construction of the improvement in accordance with resolution 2015-029, which approved the petition application on June 2, 2015.

Resolution 2015-029 was approved and subject to the requirements specified in KPБ 5.35 under Ordinance 2009-25. On June 16, 2015, the assembly approved Ordinance 2015-012, an Ordinance Amending KPБ Chapter 5.35. As such, several of the requirements for the petition and certification of the petition have since been amended. This USAD is unusual in that it is affected by both the "old" and "new" versions of KPБ 5.35. Because the petition was certified under Kenai Peninsula Borough ordinance 2009-25, the information included in this memo and resolution will be based in part on the requirements for KPБ 5.35, ordinance 2009-25.

This is the second step in a four-step process requiring assembly action for the Diamond View Estates USAD: 1) resolution approving the petition application; 2) resolution to form the district and proceed with the improvement; 3) ordinance of appropriation of funds; and 4) ordinance of assessment. Step 1 took place under the prior version of the code and impacted the requirements for the petition as laid out below; steps 2 through 4 will proceed under the current version of KPБ chapter 5.35.

The petition approved by resolution 2015-029 has been received by the borough for the purpose of forming a USAD in the area of Diamond Ridge, including a portion of Diamond Ridge Road, Kay Court, Solstice Drive, and a portion of Belnap Drive, as shown in Exhibit 3 to the resolution (district map).

This proposal allocates 100 percent of the costs to the 59 benefited parcels involved in the formation of the district. The petition was distributed to the sponsor on June 19, 2015, and the completed petition was submitted to the assessing department on July 23, 2015, thereby meeting the 45-day circulation requirement per KPB 5.35.107(B), under ordinance 2015-12. The non-refundable filing fee as established in the most current Schedule of Rates, Charges and Fees was submitted by the sponsor on July 23, 2015, thereby satisfying KPB 5.35.030(D).<sup>1</sup> A separate signature page for each property owner was issued along with a map of the benefited parcels (Exhibit 3 to the resolution); a petition information sheet (Exhibit 4 to the resolution); a commitment letter from ENSTAR (Exhibit 5 to the resolution); and funding memo from the borough Finance Director (Exhibit 6 to the resolution).

Pursuant to KPB 5.35.107(C), signatures of (a) owners of record for 36 parcels were needed to meet at least 60 percent of the total number of parcels subject to assessment within the proposed district, and validated owners' signatures for 39 parcels, or 66.10 percent, were obtained (Exhibit 1 to the resolution, Clerk's certification); and (b) the owners of at least \$7,789,620 in value was needed to meet at least 60 percent of value of the property to be benefited, and \$9,615,300 in value, or 74.06 percent, of the district's assessed value was obtained (Exhibit 2 to the resolution, estimated assessment roll).

On July 28, 2015, the borough clerk gave notice of the public hearing on the resolution to form the district and proceed with the improvement per KPB 5.35.110 (B)(1) & (2). No written objections to the necessity of formation of the district have been filed to date.<sup>2</sup> If any written objections are filed within the 30 days of the mailing of the notice an amendment memo will be provided.

#### PROJECT BACKGROUND:

The project is estimated to cost \$246,731.51. This includes direct costs of \$236,602.00 and indirect administrative costs of \$10,129.51 (Exhibit 2 to the resolution).

KPB 5.35.090 requires the method of assessment shall be an allocation of costs on a per parcel basis so that each benefited parcel is charged an equal amount. The per-parcel cost is estimated to be \$4,181.89. Equal allocation is reasonable because the immediate benefit of being able to connect a service line to the main line is the same for all parcels.

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<sup>1</sup> The non-refundable filing fee, based on the requirements of the prior version of KPB 5.35.107, was due in full at the time the sponsor submitted the completed petition.

<sup>2</sup> One letter was received on July 30, 2015, raising concerns about the signature validation process. It did not expressly object to the formation of the district. Staff responded to the letter and has not heard back from the property owner as of the date of this memo.

As required by KPB 5.35.070(C) no lien for this project may exceed 50 percent of the fair market value of the property. The estimated amount of the special assessment lien against a parcel may be reduced by a prepayment of the assessment. Within this project there are zero parcels that exceed the 50 percent limitation.

Pursuant to KPB 5.35.070(D), in no case shall a special assessment district be approved for formation by the assembly under KPB 5.35.110 where properties which will bear more than 10 percent of the estimated costs of the improvement are subject to unpaid, past-due borough property taxes at the time the assembly approves the resolution to form the district and proceed with the improvement. As of today's date, August 20, 2015, there are zero parcels within the proposed district that are delinquent in payment of the borough property tax.

Pursuant to KPB 5.35.070(E), a special assessment district may not be formed if one owner owns more than 40 percent of the total number of parcels to be benefited. Within this project, no one owner owns more than 40 percent of the total number of benefited parcels.

The resolution is supported by the exhibits listed in the resolution which provide the documentation required by code to support forming this USAD and proceeding with construction.