



Kenai Peninsula Borough

144 North Binkley Street
Soldotna, AK 99669

Meeting Agenda Assembly

Brent Johnson, President
Brent Hibbert, Vice President
Jesse Bjorkman
Lane Chesley
Tyson Cox
Richard Derkevorkian
Cindy Ecklund
Bill Elam
Mike Tupper

Sunday, September 11, 2022

1:00 PM

Betty J. Glick Assembly Chambers

Special Meeting - Zoom Meeting ID: 884 7373 9641 Passcode: 671108

CALL TO ORDER

ROLL CALL

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

NEW BUSINESS

1. Discussion Regarding Release of Internal HR Investigation Report

[Clerk's Note: An executive session may be called.]

[KPB-4594](#) Discussion regarding Disclosure of Items Discussed in Executive Session on August 23, 2022

Attachments: [Assembly Statement](#)

PUBLIC COMMENTS

[KPB-4595](#) Public Comments

Attachments: [Public Comments](#)

ASSEMBLY COMMENTS

ADJOURNMENT

The next meeting of the Kenai Peninsula Borough Assembly will be held on September 20, 2022, at 6:00 P.M. in the Borough Assembly Chambers, Soldotna, Alaska.

The meeting will be held through Zoom, the Meeting ID: 884 7373 9641 Passcode: 671108 and in-person from the Betty J. Glick Assembly Chambers, Borough Administration Building, Soldotna, Alaska. To attend the Zoom meeting by telephone call toll free 1-888-788-0099 or 1-877-853-5247 and enter the Meeting ID: 884 7373 9641 Passcode: 671108. Detailed instructions will be posted on at the Kenai Peninsula Borough's main page at www.kpb.us: "Meeting and Public Notices" "Assembly Meeting Calendar".

For further information, please call the Clerk's Office at 714-2160 or toll free within the Borough at 1-800-478-4441, Ext. 2160. Visit our website at www.kpb.us for copies of the agenda, meeting minutes, ordinances and resolutions.



Office of the Borough Clerk

144 North Binklev Street, Soldotna, Alaska 99669 • (907) 714-2160 • (907) 714-2388 Fax

Brent Johnson, President
Borough Assembly

STATEMENT FROM THE KENAI PENINSULA BOROUGH ASSEMBLY

This statement is provided after motion(s) and approval by the body, pursuant to KPB 2.90.030(D), to publicly disclose information received and discussed in executive session and waive specific aspects of Attorney-Client Privilege with regard to the below information.

On July 11, 2022, a Borough employee, through counsel, reported allegations of harassment by Kenai Peninsula Borough (Borough or KPB) Mayor Charlie Pierce. Due to the fact that there was no external complaint filed in an administrative forum or court of law, the report was investigated as an internal, confidential, personnel matter under the Borough's internal *Bullying, Harassment, Discrimination and Retaliation Prevention Policy*. The Borough hired the law firm of Ashburn & Mason to investigate the allegations pursuant to the above referenced Borough policy. On July 26, 2022, Ashburn & Mason provided its confidential investigative report the Borough Attorney that corroborated the complainant's report and found the claims credible.

On August 23, 2022, during the KPB Assembly's regularly scheduled meeting the Assembly went into executive session to provide the Borough Attorney specific direction to participate in mediation and direction regarding not to exceed mediation costs and settlement ranges. The Borough agreed to pay full mediation costs up to \$10,000. The settlement ranges will not be disclosed because disclosure could negatively impact Borough finances and opportunity for early resolution of this matter. In an effort to avoid costs associated with a threatened lawsuit, the confidential mediation will attempt to reach a resolution of the reported violation of the Borough's *Bullying, Harassment, Discrimination and Retaliation Prevention Policy*. As part of a potential mediated resolution, Mayor Pierce was asked to consider submitting his voluntary resignation because a voluntary resignation could provide greater opportunity for pre-suit resolution of this dispute in that it could provide a meaningful return to work opportunity for the complainant, which is the foremost focus of the internal process under Borough policy.

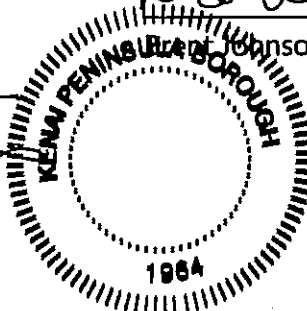
At the KPB Assembly's special meeting on September 11, 2022, called by Assembly President Johnson on September 9, 2022, and after discussing this matter—including whether to disclose confidential information received in executive session and waive specific aspects of Attorney-Client Privilege in this matter—the KPB Assembly voted on public record and approved this statement.

Brent Johnson

Brent Johnson, Assembly President

ATTEST:

John Blankenship
John Blankenship, MMC, Borough Clerk



From Grace Merkes, 38300 Stans St in Sterling AK. PO Box 8 907-398-9811

Assembly Members, Mayor Pierce & Appointed Mayor Navarre

Please read my comments for the "Special Meeting" scheduled for Sept. 11, 2022 at the Kenai Peninsula Borough building at 1:00 P.M. Title 29.20.020 gives the public the right to be heard at all Meetings as follows; "Meetings of all municipal bodies shall be public as provided in AS 44.62.310. The governing body shall provide reasonable opportunity for the public to be heard at regular and special meetings."

My first comment is that I believe it is illegal to call a "Special Meeting" with very little reasonable public notice. I don't even know if there was any notice given to the public, especially on a Saturday which is not reasonable. According to Ak. Statute there must be at least 24 hours, reasonable, public notice given for a "Special Meeting".

"Special Meetings "can only be called if the item to be discussed is "Time Sensitive". From the notice I received, the items to be discussed are not so "Time Sensitive" that it couldn't have waited till a week day or evening, instead on a Sunday afternoon.

If this Special Meeting is held, and a motion is made to go into Executive Session, I would ask that the majority of the assembly members vote NO.

I believe the two items to be discussed at the "Special Meeting" in Executive Session should be discussed with the Assembly's legal counsel in order to get his legal opinion. No "Special Meeting" is required to make a decision on the two items the assembly is considering to discuss.

In regard to the first item on the agenda, no one knows what was discussed or what is being asked to be released to the public. What kind of issues have Attorney/Client privilege. Was the information about personnel or finances for the KPB? If it was personnel, was the person noticed of his right to have the issue discussed in public or in Executive Session? I do not support releasing the "confidential attorney privileged information" regarding any case unless it is Court ordered,

On the second item to be discussed, I do not agree that the information discussed in Executive Session should be released. According to the Open Meetings Act, most Executive Sessions must be confidential. I can't believe some assembly members are even considering going "public" with confidential information! A law suit against the Kenai Peninsula Borough and the Assembly Members, regarding these two issues, could be very expensive.

Another issue; I know only the 2 items noticed for the "Special Meeting" can only be discussed but I also want to say I believe the appointment of Mike Navarre is also illegal, and could be challenged in court by the public. The assembly should move to reconsider that appointment and give due process to appointing the next temporary Mayor. There was no notice given to the public in advance and the public process was flawed. The best interests of the public were not met.

Turner, Michele

From: K, E, & E Martin <keeconstructionllc@yahoo.com>
Sent: Sunday, September 11, 2022 10:03 AM
To: Hibbert, Brent; Derkevorkian, Richard; %20jbjorkman@kpb.us; Cox, Tyson; Elam, Bill; Ecklund, Cindy; Johnson, Brent; Chesley, Lane; Tupper, Mike; Pierce, Charlie; G_Notify_AssemblyClerk
Subject: <EXTERNAL-SENDER>Obligation to Spirit & Intent

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Members of the Assembly, Please Follow the Spirit & Intent of this Statute at all times ! Ed Martin Jr.

**2021 Alaska Statutes
Title 44. State Government
Chapter 62. Administrative Procedure Act
Article 6. Open Meetings of Governmental Bodies.
Sec. 44.62.312. State policy regarding meetings.**

Universal Citation: AK Stat § 44.62.312 (2021)

(a) It is the policy of the state that

(1) the governmental units mentioned in AS 44.62.310(a) exist to aid in the conduct of the people's business;

(2) it is the intent of the law that actions of those units be taken openly and that their deliberations be conducted openly;

(3) the people of this state do not yield their sovereignty to the agencies that serve them;

(4) the people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know;

(5) the people's right to remain informed shall be protected so that they may retain control over the instruments they have created;

(6) the use of teleconferencing under this chapter is for the convenience of the parties, the public, and the governmental units conducting the meetings.

(b) AS 44.62.310(c) and (d) shall be construed narrowly in order to effectuate the policy stated in (a) of this section and to avoid exemptions from open meeting requirements and unnecessary executive sessions.

KEE Construction, LLC