

# KENAI PENINSULA BOROUGH

## Office of the Borough Clerk

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Johni Blankenship, MMC  
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### MEMORANDUM

**TO:** Blaine Gilman, Assembly President  
Kenai Peninsula Borough Assembly Members

**THRU:** Johni Blankenship, Borough Clerk (JB)

**FROM:** Michele Turner, Deputy Borough Clerk (MT)

**DATE:** February 23, 2016

**RE:** Ordinance 2016-03: Amending KPB Chapters 21.44 and 21.46 Regarding Local Option Zoning, and Repealing KPB 21.50.050 Relating to Fines and Reenacting as KPB 21.50.055 (Johnson, Mayor)

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The Cooper Landing Advisory Planning Commission addressed the referenced matter at their January 20, 2016 meeting. Attached are their meeting minutes. This item is addressed on Pages 5 – 7.

The Moose Pass Advisory Planning Commission did not have a meeting. The Planning Department recommends the tenth Whereas clause be deleted.

[WHEREAS, THE MOOSE PASS ADVISORY PLANNING COMMISSION AT ITS MEETING OF \_\_\_\_\_  
RECOMMENDED \_\_\_\_\_;]

Thank you.

**COOPER LANDING ADVISORY PLANNING COMMISSION  
MEETING  
LOCATION: COMMUNITY CLUB  
WEDNESDAY, JANUARY 20, 2016  
6:00 PM**

**UNAPPROVED MINUTES**

1. CALL TO ORDER – 6:00pm
2. ROLL CALL – J. Cadieux, D. Story, C. Williams, H. Harrison, C. James, L. Johnson present, K. Reckon attending by phone.
  - a. Public in attendance included: John Williams, Ed Holsten, Sandra Holsten, Ron Sloan, Jack Harris, Jason Lesmeister, Stephanie Ferry, Willie Davidson, Robbie Davidson.
3. APPROVAL OF AGENDA – H. Harrison moves to approve the agenda with addition of correspondence and moving Ed Holsten up from later presentation to Public Comment without Previous Notice. Seconded by L Johnson. Passed unanimously.
4. APPROVAL OF MINUTES from Nov 4, 2015 – C. Williams moves to approve, H. Harrison seconds, all approve.
5. CORRESPONDENCE – Letter from Button Family read into record. See supporting documents.
6. PUBLIC COMMENT/PRESENTATION WITHOUT PREVIOUS NOTICE
  - a. No public comment offered.
  - b. Ed Holsten with Road Service Area Board update.
    - i. A general background regarding the Kenai Road Service Area – KPB has 630 miles of roads throughout the borough. 95% are gravel. Roads are divided into 5 areas each with local representatives on the board. E. Holsten is one of the board members and represents the Eastern Kenai Peninsula including Hope and Seward as well as Cooper Landing and Moose Pass.
    - ii. He brought a list of borough maintained roads in Cooper Landing.
    - iii. Road Board Meetings are open to the public. More information regarding the Road Service Area including meeting information can be found at <http://www.kpb.us/rds-service-area/about-rds>.
    - iv. Road Service Area only has about 8 paid positions.
    - v. KPB Road Service Areas let contracts for maintenance (winter and summer) Willie and Robbie Davidson are the Hope/Seward/Cooper Landing area contractors.
    - vi. The contracts are on a 5-year cycle.
    - vii. The office goes back and forth between the contractors and inspectors. Members of the public that have concerns about maintenance of the roads can contact the Road Service Area, E. Holsten or the contractors directly. The Road Service Area can be reached at: Phone: (907) 262-4427 □ Fax: (907) 262-6090 □ Toll Free (1-800-478-4427) □ Email: roads@kpb.us

- viii. The road service area usually gets calls regarding conditions, service not in time, etc.
- ix. The service and meetings of the board deals with maintenance, right-of-ways, issues with new housing projects and addition of service areas and roads. Occasionally roads are taken off of the KPB maintenance routes.
- x. The best source of information is the KPB website. If you have any concerns with the roads of Cooper Landing please contact Ed Holsten, the KPB or the contractors themselves.
- xi. Budgets are multi-year and as of now we have not seen significant hits on the budget.
- xii. Jack Harris thanked E. Holsten for doing a “thankless job.”
- xiii. J. Cadieux asked for advice how long to wait before making calls to any of the three points of contact on days we seem to be having more issues like ice. E. Holsten said that if you are having issues with the roads you should call immediately.
- xiv. W. Davidson suggested to call ahead of time if you see weather changing and to call them [the contractors] directly because calling the borough just results in the borough calling them.
- xv. C. Williams asked about whether others in E. Holsten’s position have gone around to look at the condition of roads. J. Harris responded that there used to be someone who did that for the local area but now with the expanded area covered by one representative that is impractical.
- xvi. S. Holsten asked about how W. Davidson makes priorities? W. Davidson stated that if they know they can’t get there in time they will call others to work the routes.
- xvii. D. Story asked how long it takes to cover the entire route they are responsible for. They stated the longest it has taken in 18 years is about 3 days.
- xviii. They stated that for sanding they are required to not to sand anything other than slopes and corners.
- xix. Driveways should slope away from the road and culverts are supposed to be installed under permit and to certain specs. R. Davidson stated that many of the overflow areas brought up as problems are from areas that are installed wrong.
- xx. J. Cadieux asked their advice regarding how to approach these trouble areas. W. Davidson and E. Holsten explained that going through the road service board inspector to identify bad road design or culvert issues, for example, to be addressed by the KPB is one way to address these areas.

## 7. REPORT FROM BOROUGH

- a. UPDATE: Snug Harbor Rd Project- dumping and disposal at our existing materials site on Snug Harbor

- i. Keith Snarey – KPB Land Management Agent
- ii. The contractor for Snug Harbor project is ANCOR. All of the material must meet Federal spec and some materials will be coming out of Seward for that reason. No local gravel pit meets spec for some specific kinds of needs. The rest is bid out of Dave's (Quartz) Creek site.
- iii. ANCOR used the Snug Harbor Road MP 2.5 materials site as a disposal area in their bid. KPB understands the importance of the existing site to the Cooper Landing community and wanted to know their objectives if they were required to not use this materials site for disposal.
- iv. ANCOR's objectives were pretty straight forward according to K. Snarey. They just wanted to know where, "you want us to put the [disposal] materials?"
- v. ANCOR came to the table with the hopes of negotiating the dollar amount per cubic yard for KPB to receive the disposal materials at the MP 2.5 site.
- vi. The KPB estimates about 10,000 yards of usable material [gravel etc., not disposed materials] left on this site though it needs to be mined out. The materials are about 5 feet depth within a 10-foot strata.
- vii. K. Snarey explained the handout [see supporting documents] that shows the site and elevations.
- viii. The KPB objectives include reclaiming a part of District 3 of the MP 2.5 site so it can grow vegetation.
- ix. KPB gave ANCOR its list of objectives [see supporting documents] based on comprehensive plan. Site is classified as light industrial with resource management overlay. It is currently managed for resource management and storm water protection.
- x. After laying out the objectives for ANCOR using the Site Summary of Plans, Features, Functions, Future Uses [see supporting documents] the KPB gave ANCOR the 2015 Management Plan for the Snug Harbor Road Material Site #2 [see supporting documents] in hopes of making a reclamation plan a part of the project.
- xi. ANCOR has been digesting the information and coming up with a plan. As of today they hope to meet at the site on Jan 21<sup>st</sup>. This would be an opportunity for the community members to speak to ANCOR and KPB at the same time.
- xii. The contractor will try to stockpile the nutrient rich waste material in one area. The non-organic material like clay, sand, gravel will be used as a base and the organic-rich material will be laid over top so that it can support growing vegetation. The silt pile from DOT will be covered with the organic in hopes of getting grass to grow.
- xiii. Instead of the contractor paying the KPB a fee for using the MP 2.5 site for disposal it would be an exchange for the labor of

mixing/layering these materials and laying them using the suggested arrangement [described above].

- xiv. It is unclear whether the site will be able to be used as an organic dumpsite by the community while the contractor has site control.
- xv. C. Williams says that her biggest concern is figuring out how to allow for the community to continue utilizing the organic dump.
- xvi. K. Snarey suggests the community introduce themselves to ANCOR at the meeting to discuss this use.
- xvii. A good portion of grubbing material will be small alders, spruce and birch. It has not been determined where this material will go but K. Snarey suggests the community negotiate having the material bucked up and decked for firewood possibility.

b. UPDATE: Geotechnical Investigation of materials at Snug Harbor Rd site for possible commercial gravel extraction.

- i. One of biggest constraints of this process is budget.
- ii. The KPB was looking at having a drill rig to do the exploratory holes. That got expensive very quickly so they decided to do a subset of holes.
- iii. The ANCOR bid for Snug Harbor was bid using the Dave's Creek Gravel Pit.
- iv. There are a number of test holes that proved rich in material. [see supporting documents] The test holes at the west end of the map appear to have some good material.
- v. The KPB was surprised that the Shackleford Creek was not categorized as anadromous.
- vi. According to S. Holsten, ANCOR is one Snug Harbor Project contractor but a different contractor is responsible for the relocation, installation of utilities, which will be the cause of a good portion of the tree clearing etc. required by the project.

8. OLD BUSINESS - none

9. NEW BUSINESS

a. Ordinance #2015-27 Reducing minimum distance between a liquor licensed premise and school, churchyard, or playground.

i. Discussion

- 1. H. Harrison pointed out that this is not just liquor stores but any liquor-licensed premise which include cafés, restaurants etc. and not just liquor stores.
- 2. K. Reckon stated her concern is the schoolyard and playground areas and wonders where do we draw the line.
- 3. Jack Harris states that the drunk walking past the schoolyard is the issue and not the distance from the premises.

ii. Motion

1. C. Williams moves to support the approval of the Ordinance. C. James seconds, H Harrison, C. James and D. Story [4] approve, L. Johnson, J Cadieux, and K. Reckon [3] disapprove.
- b. Ordinance #2016-03 amending Local Option Zoning
  - i. Discussion
    1. J. Cadieux reminds everyone that this is not a broad critique of Local Option Zoning but is regarding the specific changes to the KPB Code as outlined in the supporting documents.
    2. C. James says that she disagrees with the reduction of the requirement that 6 of the 12 landowners need to be involved in the application.
      - a. B. Wall stated that initially one person could come get a petition and needed to have 75% of the landowner's signatures. It created a very difficult process and KPB felt it was outside of the control of the Borough. If 6 of 12 people in an area want the LOZD it will require the borough to act.
      - b. K. Reckon asked if one person owns 7 of 12 lots whether that would count for 7 votes. B. Wall said that it was not their intent for that to occur but that it does read that way and needs review.
      - c. K. Reckon asked for the definition of a LOZD. B. Wall explained them and says that they are similar to Birch Creek and Grouse Creek and Russian Gap areas in Cooper Landing.
      - d. C. James asks about 21.44.030(A) saying it appears that the individual who owns 6 or more lots can initiate the process and make it happen on their own without the involvement of the other landowners. B. Wall said that it does read that way and needs review.
      - e. C Williams asked whether it can be written into 21.44.050 to ensure the public meeting requirement includes a requirement the public meeting occur near the community affected. B. Wall said that had been the intention before and is not sure why that language is not in this version.
      - f. C. Williams asks about the language in 21.44.050 stating 7 days public notice prior to the hearing. She says that 7 days is inadequate as evidenced by the Button Family letter.
      - g. J. Cadieux states that in 21.44.130 (C) the removal of the old Item 4's language makes the ordinance not as inclusive of the things that qualify as a

nuisance. She suggests that if the language is eliminated outlining the items that they should be included in the definition of nuisance.

- i. B. Wall says that part of the revision comes from the unenforceability of the definitions.
  - ii. K. Reckon asks whether this revision places the onus on the affected property owner to prove the nuisance.
  - iii. B. Wall states that the new wording makes it enforceable.
  - iv. J. Cadieux finds it hard to understand how the language being less specific is more enforceable.
  - v. D. Story said the less specific language may allow the enforcement but the language should include examples of nuisances and state they are examples but not limited to those listed which would also allow enforcement of unidentified nuisances.
- h. J. Cadieux states that in 21.44.040 there is no mention of appropriate storage of feed, which can result in bear hazards. Can language be added to address secure storage of feed?
- i. B. Wall said that this would be possible. Reference to bear attractants has not been included in the ordinance but it should be.
- i. C. James and D. Story oppose the addition of prohibition on outhouses.
- i. They suggest adding language that allows possibility for outhouses as secondary systems or striking the specific prohibition of outhouses.
- j. C. Williams asks about the limitation of more than 2 travel trailers at one time. She says many people have friends visit and also own one. The phrase “at any time” is too limiting and should be replaced with a phrase like “maximum of 30 days,” for instance.
- k. 21.44.135 – New Structure Development Notice
- i. C. James asked whether this is a permit. B. Wall states that this is meant to head off things like the buildings in Russian Gap that encroached on easements.
  - ii. B. Wall also stated that it is not intended to become a revenue source.

1. C. Williams says that given the number of comments generated by our small board it indicates that these changes are being considered too quickly and needs more time to have these issues reviewed and corrected.
3. C. Williams asks about when the Ordinance will go before the Assembly. B. Wall says it will be on the Planning Commission 25<sup>th</sup> of January agenda and the Feb 2<sup>nd</sup> Assembly agenda.
4. Based on the number and scope of the comments made during this meeting D. Story moves to disapprove the Ordinance as amended in order to allow for further public comment and review and incorporation of the comments made by the CLAPC. C. Williams seconds, all approve.

10. PLAT REVIEW none proposed.

#### 11. INFORMATION and ANNOUNCEMENTS

- a. Shall the CLAPC Chair draft another letter of support for the Cooper Landing Gun Club move to the Sterling Hwy/ Quartz Creek site?
  - i. C. James moves to approve writing the letter. C. Williams seconds. All approve.

#### 12. COMMISSIONER'S COMMENTS

13. ADJOURNMENT – C. Williams moves to adjourn, C. James seconds. All approve. 8:32pm

For more information or to submit comments please contact:

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