



# **KENAI PENINSULA BOROUGH**

PLANNING DEPARTMENT

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

## **MEMORANDUM**

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

**THRU:** Mike Navarre, Borough Mayor *MD*

**FROM:** Max Best, Planning Director *MB*

**DATE:** October 3, 2016

**SUBJECT:** Ordinance 2016-36; An Ordinance Adopting the Most Recent FEMA Flood Insurance Study and Associated Coastal Flood Maps for Seward, Cooper Landing, Ninilchik, Nikiski and Anchor Point dated October 20, 2016; Amending KPB 21.06 to Update and Clarify Language

The Kenai Peninsula Borough Planning Commission reviewed the subject ordinance during their regularly scheduled September 26, 2016 meeting.

A motion passed by unanimous consent to recommend approval of Ordinance 2016-36; An Ordinance Adopting the Most Recent FEMA Flood Insurance Study and Associated Coastal Flood Maps for Seward, Cooper Landing, Ninilchik, Nikiski and Anchor Point dated October 20, 2016; Amending KPB 21.06 to Update and Clarify Language

In the Ordinance, please make the following amendment to the seventh WHEREAS statement:

*WHEREAS, at its meeting of September 26, 2016, the Kenai Peninsula Borough Planning Commission recommended approval by unanimous consent.*

Attached are the unapproved minutes of the subject portion of the meeting.

AGENDA ITEM E. UNFINISHED BUSINESS - None

AGENDA ITEM F. PUBLIC HEARINGS

1. Ordinance 2016-36; An Ordinance Adopting the Most Recent FEMA Flood Insurance Study and Associated Coastal Flood Maps for Seward, Cooper Landing, Ninilchik, Nikiski and Anchor Point dated October 20, 2016; Amending KPB 21.06 to Update and Clarify Language

Staff Report & Memorandum given by Bryr Harris

PC Meeting: 9/26/16

**MEMORANDUM**

This ordinance adopts the new Flood Insurance Study and accompanying Flood Insurance Rate Maps (FIRMs) dated October 20, 2016. The adoption of these materials will keep our floodplain management program in good standing with the National Flood Insurance Program (NFIP) and its administrator, the Federal Emergency Management Administration (FEMA). It will also provide the residents of the newly mapped areas valuable information on the flood hazards in our community and will make flood insurance through the NFIP available to those residents who wish to purchase coverage. Failure to adopt the Flood Insurance Study and the updated maps will result in our community being placed on probation by the NFIP, which will trigger an increase in premiums for all residents who currently possess NFIP flood insurance.

The ordinance also amends the KPB Floodplain Management Ordinance 21.06 with a few updates and a number of corrections. These amendments clarify and streamline the code to make it easier to understand and to enforce. The amendments make KPB 21.06 a more useful tool with which to communicate flood risk and guide development in special flood hazard areas in ways that address flood risk. A summary of the changes and supporting rationale is included with the ordinance submittal.

Shortened time is requested as the deadline for adopting the FIS and updated maps is October 26 in order for the KPB to avoid being placed on probation.

**STAFF REPORT**

The changes being proposed fills two major functions. The most important purpose is the adoption of the newest FEMA maps that have been published for the community. There are a number of coastal maps and some small changes to existing maps that are the result of the Risk Map Study which has been going on over the last few years. It is where FEMA has done some studies of areas in the community that were known to have flood risk. There was some interaction with communities and public comment events. These maps are now in their final form. Once the maps are published, the community has six months to adopt them as part of their Floodplain Management Ordinance.

These maps are not brand new because part of the ordinance is that staff uses the best available data to regulate in the floodplain so there have been preliminary versions of these maps for quite some time. This is just them becoming official.

The second part of the ordinance has to do with updates and clarifications to the existing code. There are a couple of significant updates but most of them are just adding more language that was already part of the FEMA minimum so that they are clearer and easier to regulate.

The two that are significant have to do with the way flood vents are situated in enclosed spaces below the base flood. The code requires two vents and would now require them to be on separate walls, which is a FEMA recommendation.

The second addition to the existing code is the requirement that residents who build residential structures that have enclosed areas below the base flood elevation as part of the floodplain permitting process need to sign and record a non-conversion agreement. It would say that they understand that floodplain regulations for enclosed spaces below BFE (Below Flood Elevation), that it is a dangerous space and that they need to maintain free of livable space, only used for storage, parking and access. It is so that when they sell the

property in the future, anyone who buys it will have that notice that that space needs to be maintained, what the dangers are by having enclosed spaces, etc.

The rest of the proposed changes have to do with clarifications of language.

#### END OF STAFF REPORT & MEMORANDUM

Commissioner Glendening referred to page 38 of the packet and asked for clarification regarding the following proposed change. *"The floodplain development permit shall be valid (date) and the start of construction must occur within 180 days of the permit issue until the expiration date . . ."* He stated that the old standard was one year and questioned why it was shortened. Ms. Harris replied that FEMA's minimum requires that construction happen within 180 days or the permit was no longer valid. She stated they had that before but had it along with the requirement that the permit be only valid for 12 months. The 180 days was a minimum. The reason they proposed to change this restriction was that it actually caused a lot of confusion and trouble for the applicants and staff. It made it so that the Floodplain permit couldn't have an expiration date that occurred at the same time as a habitat protection district permit. Ms. Harris stated that lots of projects that happen on the river need more than one season to complete. The Habitat Protection planners could write a permit for 1½ years because they knew it would take two summers to complete. She stated that the Floodplain has always had 12 months and they found that the applicants would complete projects without a valid floodplain permit because it would expire. She thought it would be a big help to the River Center and applicants by removing the 12 month restriction. All the permits would have expiration dates around the same time. Commissioner Glendening asked if she was in a position to explain all this to the applicants by having a harmonization of permits. Ms. Harris replied yes.

Commissioner Ecklund understood that applicants would have to have two openings in a garage and asked what would happen if an applicant wanted a heated garage. Ms. Harris replied that if an applicant has an enclosed space below the base flood elevation then it can't be a habitable space. It has to be either for storage, parking or access. These flood vents can be a problem because it lets cold air in but there are engineered vents that have louvers on them that are engineered that they are partially insulated. She stated they are closed but they have the ability to move with water. It was not perfect and there was still a gap in the wall but it was a flood safety measure that makes a big difference. The biggest problem with having vents on separate walls is that they both can't be installed on garage doors. The FEMA minimums were negotiated with Congress and they are necessarily a compromise. This is one of the improvements to existing code that FEMA recommends.

Commissioner Glendening asked about small lot sizes where greater tolerance for construction. Ms. Harris replied that there is a very narrow window for variances to the Floodplain Code. It has to do with small lot sizes where other buildings aren't elevated as far but this should very rarely happen. Commissioner Glendening asked if they had some latitude or if one size fits all with FEMA. Ms. Harris replied there was some latitude in that but variances cannot be based on financial hardship, etc. It makes sense because an argument would need to be made to why someone wants to do something that is less safe from a flood safety perspective. Commissioner Glendening asked if someone with a small footprint would be able to work within their property and not have it diminished because of this FEMA plan. Ms. Harris replied yes, she doesn't know of any variances that have been granted but there is room for it. Commissioner Glendening understood that there was a standard for variances, it was limited but it was precise.

Chairman Martin opened the meeting for public comment. Seeing and hearing no one wishing to speak Chairman Martin closed the public comment period and opened discussion among the Commission.

**MOTION:** Commissioner Ruffner moved, seconded by Commissioner Whitney recommend adoption of Ordinance 2016-36; adopting the most recent FEMA Flood Insurance Study and Associated Coastal Flood Maps for Seward, Cooper Landing, Ninilchik, Nikiski and Anchor Point dated October 20, 2016; amending KPB 21.06 to update and clarify language.

Commissioner Ecklund asked if she should recuse herself since she voted on this in Seward. Mr. Best clarified that this was a legislative issue so she was allowed to vote on it at this meeting.

**VOTE:** The motion passed by unanimous consent.

CARLUCCIO YES	COLLINS YES	ECKLUND YES	ERNST YES	FOSTER YES	GLENDENING YES	ISHAM YES
LOCKWOOD YES	MARTIN YES	MORGAN YES	RUFFNER YES	VENUTI ABSENT	WHITNEY YES	12 YES 1 ABSENT

**AGENDA ITEM F. PUBLIC HEARINGS**

2. Resolution 2016-\_\_\_\_; Authorizing the Acceptance of Title to Seven Parcels of Land from the Kenai Peninsula Building Authority, Inc. to be managed in Support of the Kenai Peninsula Borough School District Vocational Education Programs and Other School District Purposes

Memorandum & Staff Report given by Marcus Mueller

PC Meeting: 9/26/16

**MEMORANDUM**

Seven lots within the City of Kenai are proposed to be transferred from the Kenai Peninsula Building Authority, Inc. ("KPBA") to the Kenai Peninsula Borough ("borough") to support the Kenai Peninsula Borough School District's ("KPBSD") Career and Technical Education Program ("CTE").

KPBA was administered by KPBSD but has been dissolved due to inactivity by the State of Alaska. The Articles of Incorporation provided that if the KPBA were ever dissolved the lots would be transferred to the KPBSD to be used solely for educational purposes.

The school board acting on behalf of KPBA approved the conveyance of the lots purchased by the KPBSD to the KPBA with the provision that when the school board authorizes disposal of the lots the proceeds will be allocated to CTE program. Future management actions for each property would be subject to school district and Assembly approvals.

Consideration of this resolution is appreciated.

**STAFF REPORT**

These seven parcels were acquired in 1969 and 1981. There were actually 11 parcels that were initially acquired. There was an entity called Kenai Peninsula Building Authority which was an organization that was a subsidiary of the School Board. The School Board members were members of the Kenai Peninsula Building Authority, Inc. The Kenai Peninsula Building Authority was in the process of disbanding.

The Vocational Education Programs that were implemented on some of those parcels included building houses and selling them. There are a few houses out there that were developed by high school vocational education students over the years.

The programs have not been very active in recent years and this proposal would bring these parcels into the name of the Kenai Peninsula Borough. The intent would be to manage those for the School District. Should the School District wish to have those disposed then the intent would be that the proceeds would go to benefit the vocational education programs.

END OF STAFF REPORT

Chairman Martin opened the meeting for public comment. Seeing and hearing no one wishing to speak Chairman Martin closed the public comment period and opened discussion among the Commission.

**MOTION:** Commissioner Ecklund moved, seconded by Commissioner Lockwood to recommend approval of Resolution 2016-\_\_\_\_; Authorizing the acceptance of Title to seven parcels of land from the Kenai Peninsula Building Authority, Inc. to be Managed in Support of the Kenai Peninsula Borough School District Vocational Education Programs and Other School District Purposes