

Kenai Peninsula Borough

144 North Binkley Street

Soldotna, AK 99669



Meeting Agenda

Tuesday, January 7, 2020

6:00 PM

Betty J. Glick Assembly Chambers

Assembly

Kelly Cooper, President

Hal Smalley, Vice President

Norm Blakeley

Jesse Bjorkman

Kenn Carpenter

Tyson Cox

Willy Dunne

Brent Hibbert

Brent Johnson



Assembly Meeting Schedule

TUESDAY, JANUARY 7, 2020

- 2:00 PM** **Finance Committee**
- 3:00 PM** **Lands Committee**
- 4:00 PM** **Policies and Procedures Committee**
- 6:00 PM** **Regular Assembly Meeting**

Above listed meetings will be held in:

Betty J. Glick Assembly Chambers
George A. Navarre Kenai Peninsula Borough Administration Building
144 North Binkley Street, Soldotna, Alaska



Finance Committee

January 7, 2020

2:00 PM

Betty J. Glick Assembly Chambers
George A. Navarre Kenai Peninsula
Borough Administration Building

Brent Hibbert, Chair

Tyson Cox, Vice Chair

Brent Johnson

AGENDA

PUBLIC HEARINGS ON ORDINANCES

1. Ordinance 2019-38: Approving and Accepting \$13,738.95 from the State of Alaska Division of Homeland Security and Emergency Management to Reimburse Repairs at the Tebughna School Resulting from the November 30, 2018 Cook Inlet 7.0 Earthquake (Mayor) 44

NEW BUSINESS

1. Resolutions
 - *a. Resolution 2020-001: Adopting an Alternate Allocation Method for the FY20 Shared Fisheries Business Tax Program and Certifying that this Allocation Method Fairly Represents the Distribution of Significant Effects of Fisheries Business Activity in the Cook Inlet Fisheries Management Area (Mayor) 153
 - *b. Resolution 2020-002: Updating the Kenai Peninsula Borough Schedule of Rates, Charges and Fees, Pursuant to KPB 1.26 (Mayor) 156
 - *c. Resolution 2020-003: Approving the Kenai Peninsula Tourism and Marketing Program Objectives for Fiscal Year 2020 and 2021 (Hibbert) 159
2. Ordinances for Introduction
 - *a. Ordinance 2019-19-22: Redirecting and Appropriating the Remaining Balance of Funds from the Completion of the U.S. Army Corps of Engineers Salmon Creek Section 205 Project and Unused Grant Funds from the State of Alaska Grant Number 15-DC-090 for Seward Bear Creek Flood Service Area Flood Mitigation Projects (Mayor) (Hearing on 01/21/20) 175

- *b. Ordinance 2019-19-23: Appropriating Funds to Provide for a Facility Management Strategic Plan (Mayor) (Hearing on 01/21/20) 180
- *c. Ordinance 2019-19-24: Appropriating Additional Funds for the Purpose of Purchasing Environmental, Health, and Safety (EHS) Management Software (Mayor) (Hearing on 01/21/20) 184
- *d. Ordinance 2019-19-25: Appropriating Insurance Proceeds and Local Funds for the Purpose of Purchasing a Replacement Fire Truck Deemed a Total Loss (Mayor) (Hearing on 01/21/20) 188
- *e. Ordinance 2019-19-26: Appropriating Additional Funds to the Legal Department for the Costs and Fees for Outside Counsel to Continue Representing the Kenai Peninsula Borough in the Application of the Alaska Gasline Development Corporation Filed with the Federal Energy Regulatory Commission (Mayor) (Hearing on 01/21/20) 191

*Consent Agenda Items



Lands Committee

January 7, 2020

3:00 PM

Betty J. Glick Assembly Chambers
George A. Navarre Kenai Peninsula
Borough Administration Building

Brent Johnson, Chair

Kenn Carpenter, Vice Chair

Norm Blakeley

AGENDA

PUBLIC HEARINGS ON ORDINANCES

- 2. Ordinance 2019-33: Amending KPB 20.10.030 and KPB 20.90.010 to Clarify Applicability of Subdivision Requirements (Mayor) 49
- 3. Ordinance 2019-34: Amending KPB 21.46.040 to Create the Kalifornsky Center Single Family Residential R-1 Local Option Zoning District on an Approximately 55-Acre Borough-Owned Parcel (Mayor) 54
- 4. Ordinance 2019-35: Approving C & H Estates Single-Family Residential R-1 Local Option Zoning District and Amending KPB 21.46.040 (Mayor) 62
- 5. Ordinance 2019-36: Authorizing the Negotiated Lease of Garage Space at the Bear Creek Fire Station with Alaska State Troopers A Detachment North (Mayor) 79
- 6. Ordinance 2019-37: Amending KPB 17.10.120, Terms of a Land Sale, to Address Kenai Peninsula Borough Employee and Contractor Participation in Certain Land Disposal Methods (Mayor) 90

UNFINISHED BUSINESS

- 1. Postponed Item
 - a. Resolution 2019-070: Authorizing the Borough to Enter into a Resource Exchange Agreement with Trimark Earth Reserve, LLC for the Construction of a Road to and through Borough Property (Mayor) 109

NEW BUSINESS

1. Resolutions

- *d. Resolution 2020-004: Supporting the City of Kenai’s Request for the Kenai Peninsula Borough to Select Through its Municipal Entitlement, Land Described as T6N., R11W. Sec. 31, Lots 40, 41, and 42, Containing 3.75 Acres, From the State of Alaska for the City of Kenai to Enable the Continued Maintenance and Operation of the 4th Avenue Municipal Park (Smalley) 162

3. Other

- *a. Petition to Vacate a 100-foot Wide Section Line Easement Running East to West within US Survey 14477 Described as a 50-foot Section Line Easement within Section 27 and a 50-foot Section Line Easement within Section 34. The Section Line Easement Being Vacated is Unconstructed and Located within Sections 27 and 34, Township 5 North, Range 4 West, Seward Meridian, Alaska, within the Kenai Peninsula Borough. KPB File 2019-138V. Petitioner: Mary J. Dreifuerst of Cooper Landing, AK. 204

*Consent Agenda Items



Policies and Procedures Committee

January 7, 2020

4:00 PM

Betty J. Glick Assembly Chambers
George A. Navarre Kenai Peninsula
Borough Administration Building

Willy Dunne, Chair

Hal Smalley, Vice Chair

Kenn Carpenter

AGENDA

ITEMS NOT APPEARING ON THE REGULAR AGENDA

1. Assembly Discussion Regarding Active Shooter Training

PUBLIC HEARINGS ON ORDINANCES

7. Ordinance 2019-39: Repealing KPB 12.06 and Enacting 12.08 Junk and Abandoned Vehicles (Mayor) 96

NEW BUSINESS

1. Resolutions
 - *e. Resolution 2020-005: Authorizing a Quarterly Update to the Borough Records Retention Schedule (Cooper at the Request of the Borough Clerk) 166
2. Ordinances for Introduction
 - *f. Ordinance 2020-01: Amending KPB 4.30.010 and KPB 4.30.050 Regarding Candidate Qualification and Review of Candidate Qualifications for Borough Elections (Johnson) (Hearing on 02/04/20) 194
 - *g. Ordinance 2020-02: Amending KPB 2.54.060 Regarding Response to Requests for Access to Public Records to Increase Time Limits for Response (Cooper at the Request of the Borough Clerk) (Hearing on 02/04/20) 201

3. Other

*b. Confirming Appointments to the Board of Equalization (Mayor) 233

<u>Applicant</u>	<u>Seat</u>	<u>Term Expires</u>
Brent Johnson	E	December 31, 2022
Dale Lee Bagley	B	December 31, 2022

*c. Confirming Appointments to Service Area Boards (Mayor) 239

<u>Road Service Area</u>	<u>Board Seat</u>	<u>Term to Expire</u>
Mike Tauriainen	At-Large	September, 2022

<u>Seward-Bear Creek Flood</u> Edward Decastro	Seat C	October, 2022
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<u>Seldovia Recreation</u> Mark Janes	Seat A	October, 2022
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MAYOR'S REPORT..... 240

1. Assembly Requests/Responses – None.

2. Agreements and Contracts

a. Native Village of Tyonek Snow Removal Sole Source 241

b. Authorizing to Award a Contract for ITB20-011 Nikiski Fire Station #3 to F-E Contracting, Inc., Palmer, Alaska..... 243

c. Authorization to Award a Contract for ITB20-008 Anchor Point Fire Station Boiler Replacement to Peninsula Plumbing and Heating, Inc., Soldotna, Alaska. 245

d. Authorization to Award a Contract for RFP20-008 South Peninsula Hospital CT Remodel to Hue Design, Inc. 247

e. Authorization to Award a Contract for ITB20-012 Kenai Middle School Intensive Needs Remodel to Orion Construction, Inc., Wasilla, Alaska. 248

f. External Mail Gateway Sole Source Waiver with Excel Micro 250

3. Other

- a. Budget Revisions – November 2019 251
- b. Revenue – Expenditure Report – November 2019..... 253

*Consent Agenda Items



Assembly Agenda

January 7, 2020 - 6:00 PM

Regular Meeting

Betty J. Glick Assembly Chambers
George A. Navarre Kenai Peninsula
Borough Administration Building

Kelly Cooper
Assembly President
Seat 8 – Homer
Term Expires 2020

Harold "Hal" Smalley
Assembly Vice
President
Seat 2 - Kenai
Term Expires 2020

Jesse Bjorkman
Assembly Member
Seat 3 - Nikiski
Term Expires 2022

Norm Blakeley
Assembly Member
Seat 5-Sterling/Funny
River
Term Expires 2020

Kenn Carpenter
Assembly Member
Seat 6 – East Peninsula
Term Expires 2021

Tyson Cox
Assembly Member
Seat 4 - Soldotna
Term Expires 2022

Willy Dunne
Assembly Member
Seat 9 - South
Peninsula
Term Expires 2021

Brent Johnson
Assembly Member
Seat 7 – Central
Term Expires 2022

Brent Hibbert
Assembly Member
Seat 1 – Kalifornsky
Term Expires 2021

CALL TO ORDER

PLEDGE OF ALLEGIANCE

INVOCATION

Any invocation that may be offered at the beginning of the assembly meeting shall be a voluntary offering of a private person, to and for the benefit of the assembly. No member of the community is required to attend or participate in the invocation.

[Clerk's Note: The invocation will be offered by Dawn Mallette.]

ROLL CALL

COMMITTEE REPORTS

APPROVAL OF AGENDA AND CONSENT AGENDA

(Action items listed with an asterisk (*) are considered to be routine and non-controversial by the Assembly and will be approved by one motion. Public testimony will be taken. There will be no separate discussion of these items unless an Assembly Member so requests, in which case the item will be removed from the Consent Agenda and considered in its normal sequence on the agenda.)

ACTION ITEMS CURRENTLY ON CONSENT AGENDA

- Resolution 2020-001
- Resolution 2020-002
- Resolution 2020-003
- Resolution 2020-004
- Ordinance 2019-19-22
- Ordinance 2019-19-23
- Ordinance 2019-19-24
- Ordinance 2019-19-25
- Ordinance 2019-19-26
- Ordinance 2020-01
- Ordinance 2020-02
- Petition to Vacate
- Board of Equalization Appointments
- Service Area Board Appointments

ACTION ITEMS ELIGIBLE TO BE ADDED TO THE CONSENT AGENDA
Ordinance 2019-38
Ordinance 2019-36

APPROVAL OF MINUTES

- *1. December 3, 2019 Regular Assembly Meeting Minutes 1
- *2. December 13, 2019 Special Assembly Meeting Minutes 14

COMMENDING RESOLUTIONS AND PROCLAMATIONS

PRESENTATIONS WITH PRIOR NOTICE (20 Minutes total)

- 1. Kenai Peninsula Project Homeless Connect; Kathy Gensel, Steering Project Chair, Frank Alioto, Co-Chair and Jodi Stuart, PR Chair (10 Minutes) 16

PUBLIC COMMENTS ON ITEMS NOT APPEARING ON THE AGENDA
(3 minutes per speaker; 20 Minutes aggregate)

ITEMS NOT COMPLETED FROM PRIOR AGENDA

PUBLIC HEARINGS ON ORDINANCES (Testimony limited to 3 minutes per speaker)

- 1. Ordinance 2019-38: Approving and Accepting \$13,738.95 from the State of Alaska Division of Homeland Security and Emergency Management to Reimburse Repairs at the Tebughna School Resulting from the November 30, 2018 Cook Inlet 7.0 Earthquake (Mayor) (Referred to Finance Committee) 44
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 - a. Ordinance 2019-30 (Mayor) Substitute: Amending KPB 21.29, KPB 21.25, and KPB 21.50.055 Regarding Material Site Permits, Applications, Conditions, and Procedures (Mayor) 125

[Clerk's Note: Bjorkman gave notice of reconsideration at the 12/03/19 assembly meeting.]

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Brent Johnson	E	December 31, 2022

b. Revenue – Expenditure Report – November 2019 253

PUBLIC COMMENTS AND PUBLIC PRESENTATIONS (3 minutes per speaker)

ASSEMBLY COMMENTS

PENDING LEGISLATION (This item lists legislation which will be addressed at a later date as noted.)

1. Anadromous Waterway Protection Workgroup Appointments
(Postponed until 01/21/20)
2. Ordinance 2019-24 (Mayor) Substitute: Adopting KPB 20.80,
Subdivision Private Streets and Gated Subdivisions (Mayor)
(Postponed to 02/25/20) (Referred to Lands Committee)

INFORMATIONAL MATERIALS AND REPORTS

ASSEMBLY MEETING AND HEARING ANNOUNCEMENTS

- | | | |
|----|-----------------------------|--|
| 1. | January 25, 2020
6:00 PM | Regular Assembly Meeting
Betty J. Glick Assembly Chambers
Soldotna, Alaska |
|----|-----------------------------|--|

ADJOURNMENT

This meeting will be broadcast on KDLL-FM 91.9 (Central Peninsula), KBBI-AM 890 (South Peninsula), K201AO(KSKA)-FM 88.1 (East Peninsula).

Copies of agenda items are available at the Borough Clerk's Office and in the Meeting Room just prior to the meeting. 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 summaries, ordinances and resolutions.



Kenai Peninsula Borough

144 North Binkley Street
Soldotna, AK 99669

Meeting Minutes

Assembly

Kelly Cooper, President
Hal Smalley, Vice President
Norm Blakeley
Jesse Bjorkman
Kenn Carpenter
Tyson Cox
Willy Dunne
Brent Hibbert
Brent Johnson

Tuesday, December 3, 2019

6:00 PM

Betty J. Glick Assembly Chambers

CALL TO ORDER

PLEDGE OF ALLEGIANCE

INVOCATION

[Clerk's Note: The Assembly observed a moment of silence.]

ROLL CALL

Present: 9 - Brent Hibbert, Kenn Carpenter, Norm Blakeley, Kelly Cooper, Hal Smalley, Willy Dunne, Jesse Bjorkman, Tyson Cox, and Brent Johnson

Also present were:

Charlie Pierce, Borough Mayor

James Baisden, Chief of Staff

Colette Thompson, Borough Attorney

Johni Blankenship, Borough Clerk

Michele Turner, Deputy Borough Clerk

COMMITTEE REPORTS

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

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

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

Assembly Member Smalley stated the Legislative Committee met and discussed its

agenda items.

APPROVAL OF AGENDA AND CONSENT AGENDA

Smalley 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 action items on the consent agenda.

[KPB-2394](#) November 5, 2019 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:

[2019-19-18](#) An Ordinance Appropriating Additional Funding for the Construction of Nikiski Fire Station Number Three (Mayor)

[Clerk's Note: A new Section 2 was added to read, "That funds in the amount of \$519,000 are appropriated from the Nikiski Fire Service Area Capital Project Fund, fund balance 441.27910 to be transferred to project account 441.51110.19411.49999." and Sections 3 and 4 renumbered accordingly.]

This Budget Ordinance was enacted as amended.

[2019-19-19](#) An Ordinance Appropriating Phase Two Bond Proceeds for the Purpose of Purchasing Emergency Vehicles in the Central Emergency Service Area (Mayor)

This Budget Ordinance was enacted.

[2019-19-20](#) An Ordinance Appropriating Additional Funding for the Anchor Point Fire and Emergency Medical Service Area Station One Boiler Replacement (Mayor)

This Budget Ordinance was enacted.

[2019-32](#) An Ordinance Approving an Operating Agreement with South Peninsula Hospital, Inc. for South Peninsula Hospital and Other Medical Facilities (Mayor)

[Clerk's Note: The third Whereas clause was amended to read, "at its meeting of November 14, 2019, the South Kenai Peninsula Hospital Service Area Board recommended approval by majority vote"; and The final Whereas clause was amended to read "at its meeting of November 5, 2019, the SPHI board of directors recommended approval;" and a new Section 2 to read, "The assembly

shall consider all recommendations submitted to it by the South Kenai Peninsula Hospital Service Area Board on matters submitted for assembly consideration pursuant to the Operating Agreement"; and Sections 3, 4, and 5 renumbered accordingly.]

This Ordinance was enacted as amended.

New Business

[2019-064](#) A Resolution Authorizing Community Assistance Program Expenditures for Unincorporated Communities (Mayor)

[Clerk's Note: Johnson declared a possible conflict with Resolution 2019-064 as he was the President of the Kasilof Regional Historical Society who was a grant recipient of the Community Assistance Program. President Cooper ruled a conflict existed and Mr. Johnson abstained from the discussion and vote on Resolution 2019-064.]

This Resolution was adopted.

[2019-067](#) A Resolution Approving an Automatic Aid Agreement and Operational Plan Between Anchor Point Fire & Emergency Service Area and the City of Homer Volunteer Fire Department for Fire Response Services (Mayor)

This Resolution was adopted.

[2019-068](#) A Resolution Approving a Mutual Aid Agreement and Operational Plan Between Anchor Point Fire & Emergency Medical Service Area and the City of Homer Volunteer Fire Department for Fire Response Services (Mayor)

This Resolution was adopted.

[2019-069](#) A Resolution Authorizing the Borough, on Behalf of the South Kenai Peninsula Hospital Service Area, to Enter into a Long-Term Lease Agreement for a Professional Office Building at 4201 Bartlett Street, Homer, Alaska (Mayor)

[Clerk's Note: The final Whereas in Resolution 2019-069 was amended to read, "the KPB Planning Commission at its regularly scheduled meeting of November 25, 2019, recommended approval by unanimous consent."

This Resolution was adopted as amended.

[2019-071](#) Confirming Appointments to Non-Borough Committees and Boards (Cooper)

This Resolution was adopted.

[2019-063](#) A Resolution Requesting the State of Alaska Legislature Approve a Coastal Infrastructure General Obligation Bond for the 2020 Election (Cooper, Smalley, Cox, Johnson)

[Clerk's Note: The second Whereas in Resolution 2019-069 was amended to read, "many port, harbors, and docks need replacement or repair and have little financial ability to do so, including those in Anchorage, Ketchikan, Skagway, Juneau, Petersburg, Cordova, Kenai, Seward, Homer, Port Graham, Seldovia, Nenana, and others; and". The third Whereas was amended to read, "coastal infrastructure throughout the state, from Utqiagvik, Dutch Harbor, Unalaska, Whittier, Nome, Mat Su Borough, Kenai Peninsula Borough, Sitka, Kodiak and more play key roles in local economies;".]

This Resolution was adopted as amended.

[2019-065](#) A Resolution Supporting the Transportation Priorities to be Considered for Grant Funding to be Submitted to the State of Alaska Department of Transportation and Public Facilities (Mayor)

[Clerk's Note: Hibbert declared a possible conflict with Resolution 2019-065 as he owns Alaska Cab that provides transportation for the Independent Living Center. President Cooper ruled a conflict existed and Mr. Hibbert abstained from the discussion and vote on Resolution 2019-065.]

This Resolution was adopted.

[2019-38](#) An Ordinance Approving and Accepting \$13,738.95 from the State of Alaska Division of Homeland Security and Emergency Management to Reimburse Repairs at the Tebughna School Resulting from the November 30, 2018 Cook Inlet 7.0 Earthquake (Mayor) (Hearing on 01/07/19)

This Ordinance was introduced and set for public hearing.

[2019-33](#) An Ordinance Amending KPB 20.10.030 and KPB 20.90.010 to Clarify Applicability of Subdivision Requirements (Mayor) (Hearing on 01/07/20)

This Ordinance was introduced and set for public hearing.

[2019-34](#) An Ordinance Amending KPB 21.46.040 to Create the Kalifornsky Center Single Family Residential R-1 Local Option Zoning District on an Approximately 55-Acre Borough-Owned Parcel (Mayor) (Hearing on 01/07/20)

This Ordinance was introduced and set for public hearing.

[2019-35](#) An Ordinance Approving C & H Estates Single-Family Residential R-1 Local Option Zoning District and Amending KPB 21.46.040 (Mayor) (Hearing on 01/07/20)

This Ordinance was introduced and set for public hearing.

[2019-36](#) An Ordinance Authorizing the Negotiated Lease of Garage Space at the Bear Creek Fire Station with the Alaska State Troopers a Detachment North (Mayor) (Hearing on 01/07/20)

This Ordinance was introduced and set for public hearing.

[2019-37](#) An Ordinance Amending KPB 17.10.120, Terms of a Land Sale, to Address Kenai Peninsula Borough Employee and Contractor Participation in Land Disposal Methods (Mayor) (Hearing on 01/07/20)

This Ordinance was introduced and set for public hearing.

[2019-39](#) An Ordinance Repealing KPB 12.06 and Enacting KPB 12.08 Junk and Abandoned Vehicles (Mayor) (Hearing on 01/07/20)

This Ordinance was introduced and set for public hearing.

[KPB-2375](#) Confirming an Appointment to the Road Service Area Board (Mayor)

Larry Smith, Seat At-Large, Term Expires 09/30/2022

approved

[KPB-2389](#) Confirming an Appointment to the Anchor Point Fire and Emergency Medical Service Area Board (Mayor)

Edward Jolly, Seat C, Term Expires 10/2021

approved

[KPB-2373](#) Confirming the Appointment of Assembly Member Brent Johnson to the Anadromous Waters Habitat Protection Work Group (Cooper)

approved

Approval of the Consent Agenda

President Cooper called for public comment.

Debbie Cary, Ninilchik, thanked the assembly for their support of Resolution

2019-063.

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

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

Yes: 9 - Hibbert, Carpenter, Blakeley, Cooper, Smalley, Dunne, Bjorkman, Cox, and Johnson

COMMENDING RESOLUTIONS AND PROCLAMATIONS

PRESENTATIONS WITH PRIOR NOTICE

1. [KPB-2390](#) Central Peninsula Hospital Quarterly Report (10 Minutes)
[Clerk's Note: Rick Davis, CEO for Central Peninsula Hospital gave a presentation to the assembly.]
2. [KPB-2391](#) South Peninsula Hospital Quarterly Report (10 Minutes)
[Clerk's Note: Ryan Smith, CEO for South Peninsula Hospital gave a presentation to the assembly.]

PUBLIC COMMENTS ON ITEMS NOT APPEARING ON THE AGENDA

President Cooper called for public comment.

Carrie Henson, Kalifornsky, spoke to the assembly regarding the K-Beach Advisory Planning Commission Board.

Shawna Wolk, Kasilof, spoke to the assembly regarding fish waste at the Crooked Creek bridge.

Tim Dillon, Soldotna, spoke to the assembly regarding the Kenai Peninsula Economic Development District's Economic Outlook Forum on January 8, 2020 at AVTEC in Seward.

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

ITEMS NOT COMPLETED FROM PRIOR AGENDA

PUBLIC HEARINGS ON ORDINANCES

[2019-24](#) An Ordinance Adopting KPB 20.80, Subdivision Private Streets and Gated Subdivisions (Mayor)

[Clerk's Note: A teleconference site was established at Homer City Hall

to take public testimony on the above referenced ordinance and substitute ordinance.]

[Clerk's Note: The motion to enact was on the floor from October 8, 2019 meeting.]

President Cooper called for public comments at the Homer Teleconference Site.

The following people spoke in opposition to Ordinance 2019-24:

Jeff Middleton, Homer
David Stutzer, Homer
Xochitl Lopelayala, Homer
Steve Gibson, Homer
Roberta Highland, Homer

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

President Cooper called for public comments in assembly chambers.

Frank Turpin, Kenai Keys spoke in opposition to Ordinance 2019-24.

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

Johnson moved to amend Ordinance 2019-24 by substitute.

The motion to amend Ordinance 2019-24 by substitute carried by the following vote:

Yes: 9 - Hibbert, Carpenter, Blakeley, Cooper, Smalley, Dunne, Bjorkman, Cox, and Johnson

Smalley moved to postpone Ordinance 2019-24 (Mayor) Substitute to the February 25, 2020 assembly meeting.

Assembly Members Johnson, Blakeley, Dunne, Cox and Bjorkman spoke in support of postponement.

The motion to postpone Ordinance 2019-24 (Mayor) Substitute to February 25, 2020 carried by the following vote:

Yes: 9 - Hibbert, Carpenter, Blakeley, Cooper, Smalley, Dunne, Bjorkman, Cox, and Johnson

[2019-30](#)

An Ordinance Amending KPB 21.29, KPB 21.25, and KPB 21.50.055 Regarding Material Site Permits, Applications, Conditions, and Procedures (Mayor)

Johnson moved to enact Ordinance 2019-30.

President Cooper called for public comments.

The following people spoke in opposition to Ordinance 2019-30:

Richard Carlton, Anchor Point

Robert Peterkin, Kenai

Joe Ross, Nikiski

Jeanne Bilben, Anchor Point

Hans Bilben, Anchor Point

Pete Kinneen, Anchor Point

Lynn Whitmore, Anchor Point

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

Assembly Member Johnson spoke in support of Ordinance 2019-30.

Assembly Members Hibbert, Blakeley and Bjorkman spoke in opposition of Ordinance 2019-30.

President Cooper passed the gavel to Vice President Smalley and spoke in support of Ordinance 2019-30. Vice President Smalley returned the gavel to President Cooper.

Johnson moved to amend Ordinance 2019-30 by substitute.

The motion to amend Ordinance 2019-30 by substitute carried by the following vote:

Yes: 9 - Hibbert, Carpenter, Blakeley, Cooper, Smalley, Dunne, Bjorkman, Cox, and Johnson

The motion to enact Ordinance 2019-30 (Mayor) Substitute failed by the following vote:

Yes: 3 - Cooper, Dunne, and Johnson

No: 6 - Hibbert, Carpenter, Blakeley, Smalley, Bjorkman, and Cox

[Clerk's Note: Bjorkman gave notice of reconsideration of Ordinance 2019-30 (Mayor) Substitute.]

[2019-31](#)

An Ordinance Adopting the Updated 2019 Kenai Peninsula Borough All-Hazard Mitigation Plan and Removing the Word "All" from KPB 2.80.010 (Mayor)

Dunne moved to enact Ordinnace 2019-31.

President Cooper called for public comments with none being offered.

The motion to enact Ordinance 2019-31 carried by the following vote:

Yes: 9 - Hibbert, Carpenter, Blakeley, Cooper, Smalley, Dunne, Bjorkman, Cox, and Johnson

UNFINISHED BUSINESS

NEW BUSINESS

Resolutions

[2019-066](#) A Resolution Redirecting Project Funds Previously Appropriated for the Former Soldotna Prep Building and Campus Operational Costs to be Utilized for Design and Feasibility Analysis (Mayor)

Hibbert moved to adopt Resolution 2019-066.

President Cooper called for public comments with none being offered.

Assembly Members Cox, Blakeley, and Johnson spoke in support of Resolution 2019-066.

The motion to adopt Resolution 2019-066 carried by the following vote:

Yes: 8 - Hibbert, Carpenter, Blakeley, Cooper, Smalley, Dunne, Cox, and Johnson

No: 1 - Bjorkman

[2019-070](#) A Resolution Authorizing the Borough to Enter into a Resource Exchange Agreement with TriMark Earth Reserve, LLC for the Construction of a Road to and through Borough Property (Mayor)

Johnson moved to adopt Resolution 2019-070.

President Cooper called for public comments with none being offered.

Johnson moved to amend Resolution 2019-070 as follows:

A motion was made by Johnson that this Resolution be amended. The motion carried by the following vote:

Yes: 9 - Hibbert, Carpenter, Blakeley, Cooper, Smalley, Dunne, Bjorkman, Cox, and Johnson

The final Whereas clause in Resolution 2019-070 was amended to read, "the planning commission at its regularly scheduled meeting of November 25, 2019, recommended approval by unanimous consent."

Dunne moved to postpone Resolution 2019-070 as amended to the January 7, 2020 meeting.

The motion to postpone Resolution 2019-070 to January 7, 2020 carried by the following vote.

Yes: 9 - Hibbert, Carpenter, Blakeley, Cooper, Smalley, Dunne, Bjorkman, Cox, and Johnson

Other

[KPB-2395](#) Approving the Mayor's List of Members to the Anadromous Waters Habitat Protection Work Group (Mayor)

North Seat, Wayne Ogle, Past Assembly President

West Seat, Branden Bornemann, Executive Director, Kenai Watershed Forum

East Seat, Ed Oberts, Local Realtor

South Seat, Dawson Slaughter, Anchor Point Advisory Planning Commission

Central Seat, Kaitlin Vadla, Soldotna Planning Commissioner

Dunne moved to approve the Mayor's list of members to the Anadromous Waters Habitat Protection Work Group.

President Cooper called for public comments with none being offered.

Carpenter moved to postpone approval of the working group appointments to January 21, 2020.

The motion to postpone approval of the working group appointments to January 21, 2020 carried by the following vote:

Yes: 9 - Hibbert, Carpenter, Blakeley, Cooper, Smalley, Dunne, Bjorkman, Cox, and Johnson

[KPB-2396](#) LAYDOWN Mayor's Veto of Ordinance 2019-19-15, Appropriating Funds to Award a Grant to the Kenai Peninsula Tourism Marketing Council to Support its Planned Projects to Promote the Borough

[Clerk's Note: 6 Yes votes are required to override a veto by the mayor. If the motion to override is not successful or no motion is made, the veto will stand.]

Hibbert moved to override the Mayor's Veto of Ordinance 2019-19-15.

Assembly Members Hibbert and Cox spoke in support of overriding the the Mayor's Veto.

Assembly Members Carpenter, Blakeley and Bjorkman spoke in opposition to override the Mayor's Veto.

The motion to override the Mayor's Veto of Ordinance 2019-19-15 carried by the following vote:

Yes: 6 - Hibbert, Cooper, Smalley, Dunne, Cox, and Johnson

No: 3 - Carpenter, Blakeley, and Bjorkman

MAYOR'S REPORT

[KPB-2376](#) Mayor's Report Cover Memo

1. Assembly Requests/Responses - None.
2. Agreements and Contracts
 - a. [KPB-2377](#) Authorization to Award a Contract for ITB20-009 Homer High School Boiler Replacement to Mechanical Specialist, Inc., Wasilla, AK.
 - b. [KPB-2380](#) Authorization to Award a Contract for ITB20-014 Central Peninsula Landfill (CPL) Brush Burning 2019 to Evergreen Alaska, Inc., Kasilof, AK
 - c. [KPB-2381](#) Authorization to Award a Contract for RFP20-005 North Peninsula Recreation Service Area Remodel Professional Designs Services to Architects Alaska, Inc. Anchorage, AK.
3. Other
 - a. [KPB-2382](#) Capital Project Reports - September 30, 2019
 - b. [KPB-2383](#) Budget Revisions - October 2019
 - c. [KPB-2384](#) Revenue - Expenditure Report - October 2019
 - d. [KPB-2388](#) Investment Report Quarter Ended 09/30/19

PUBLIC COMMENTS AND PUBLIC PRESENTATIONS

President Cooper called for public comments.

Carrie Henson, Kalifornsky, spoke to the assembly regarding appointments to K-Beach Advisory Planning Commission.

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

ASSEMBLY COMMENTS

Assembly Member Johnson thanked Assembly Member Bjorkman for the notice to reconsider Ordinance 2019-30. He offered his condolences to the family of Rosie Grouts and Shirlie Fritz. He thanked the Mayor and staff for their hard work on Borough finances. He wished everyone a Merry Christmas.

Assembly Member Dunne wished everyone a happy holiday season. He encouraged people to attend the Nutcracker Ballet in Homer.

Assembly Member Blakeley thanked Assembly Member Bjorkman for the notice to reconsider Ordinance 2019-30. He wished everyone a Merry Christmas and a happy new year.

Assembly Member Bjorkman encouraged everyone to navigate the roads safely. He thanked the Homer Electric Association crews who were out restoring power to residents across the peninsula. He reminded residents to have a plan in place when winter emergencies arise. He congratulated Nikiski Fire Service Area regarding funding for the new Nikiski fire station. He encouraged residents of Nikiski to engage in discussions regarding the plan for the new station and continue to be active in their local government. He thanked the Nikiski High School administration for a great Thanksgiving assembly.

Assembly Member Cox congratuated Virginia Morgan on her appointment to the School Board.

Assembly Member Hibbert thanked the Borough department heads for their hard work and dedication to the borough. He thanked the administration for continuing the employee of the month recognition.

Assembly Member Carpenter encouraged residents to drive safely on winter roads and wished everyone a Merry Christmas and a happy new year.

Assembly Member Smalley thanked KPB Finance Director, Brandi Harbaugh and her department for their hard work on the budget reports. He congratulated Dawn Robinson for being named employee of the month and welcomed Brian Taylor in the Planning Department and Patty Burley in the Legal Department to the Borough family. He spoke on AML sessions he attended in Anchorage and the emphasis placed on homelessness in the communities within Alaska. He also stated he attended a meeting regarding the online sales tax initiative. He congratulated the Nikiski and Kenai volleyball teams for their performance at the state tournament.

President Cooper spoke on her admiration for the AML conference. She thanked the assembly for their hard work and dialogue throughout the meeting. She stated her gratefulness to the diversity on the assembly as well as the KPB residents for being engaged in the local government.

INFORMATIONAL MATERIALS AND REPORTS

ASSEMBLY MEETING AND HEARING ANNOUNCEMENTS

1. January 7, 2020 Regular Assembly Meeting
6:00 PM Betty J. Glick Assembly Chambers, Soldotna, Alaska

ADJOURNMENT

With no further business to come before the assembly, President Cooper adjourned the meeting at 10:56 p.m.

I certify the above represents accurate minutes of the Kenai Peninsula Borough Assembly meeting of December 3, 2019.

Johni Blankenship, MMC, Borough Clerk

Approved by the Assembly: _____



Kenai Peninsula Borough

144 North Binkley Street
Soldotna, AK 99669

Meeting Minutes - Draft

Assembly

Kelly Cooper, President
Hal Smalley, Vice President
Norm Blakeley
Jesse Bjorkman
Kenn Carpenter
Tyson Cox
Willy Dunne
Brent Hibbert
Brent Johnson

Friday, December 13, 2019

3:00 PM

Betty J. Glick Assembly Chambers

Special Meeting

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

[Clerk's Note: Assembly Members Dunne and Cooper participated by phone.]

Present: 8 - Brent Hibbert, Norm Blakeley, Kelly Cooper, Hal Smalley, Willy Dunne, Jesse Bjorkman, Tyson Cox, and Brent Johnson

Absent: 1 - Kenn Carpenter

APPROVAL OF AGENDA

[KPB-2401](#) Briefing Regarding the Winter Storm Response in Various Areas in the Kenai Peninsula Borough, Dan Nelson, Senior Manager, Office of Emergency Management and Dil Uhlin, Roads Director

[Clerk's Note: Dan Nelson and Dil Uhlin gave a presentation to the assembly.]

NEW BUSINESS

1. Resolution

[2019-072](#) An Emergency Resolution Extending the Declaration of Local Disaster Emergency for Winter Storm Response in Various Areas of the Kenai Peninsula Borough (Mayor)

Hibbert moved to adopt Emergency Resolution 2019-072.

Vice President Smalley called for public comment with none being offered.

The motion to adopt Emergency Resolution 2019-072 carried by the following vote:

Yes: 8 - Hibbert, Blakeley, Cooper, Smalley, Dunne, Bjorkman, Cox, and Johnson

Absent: 1 - Carpenter

2. Ordinance

[2019-19-21](#) An Emergency Ordinance Appropriating Funds from the General Fund for Winter Storm Response Under the Declared Local Disaster Emergency within the Kenai Peninsula (Mayor)

Hibbert moved to enact Emergency Ordinance 2019-19-21.

Vice President Smalley called for public comment with none being offered.

The motion to enact Emergency Ordinance 2019-19-21 carried by the following vote:

Yes: 8 - Hibbert, Blakeley, Cooper, Smalley, Dunne, Bjorkman, Cox, and Johnson

Absent: 1 - Carpenter

PUBLIC COMMENTS

Vice President Smalley called for public comment with none being offered.

ADJOURNMENT

With no further business to come before the assembly, Vice President Smalley adjourned the meeting at 3:29 p.m.

I certify the above represents accurate minutes of the Kenai Peninsula Borough Assembly special meeting of December 13, 2019.

Johni Blankenship, MMC, Borough Clerk

Approved by the Assembly: _____



Kenai Peninsula Project Homeless Connect

Brought to you in partnership with the Kenai Peninsula Continuum of Care and the Kenai Peninsula Project Homeless Connect Sub-committee

Speakers: Kathy Gensel-Steering Project Chair, Frank Alioto-Co-Chair & Jodi Stuart-PR Chair

What is Project Homeless Connect (PHC)?

- **One-day:** a community-wide event
- **One-stop:** housing, support, and quality of life resources
- **One-goal:** ending homelessness
 - City/county or community-led
 - Consumer-centric
 - Outcome-oriented



The Ten Essential Elements of Project Homeless Connect

1. Political / Civic Will
2. Partnership
3. Event Execution
4. Planning Team
5. Site Selection
6. Volunteers
7. Resources
8. Consumer Engagement
9. Media
10. Data and Results





Political / Civic Will

Mayor and borough official leadership integrates PHC into jurisdictionally-led, community-based 10-Year Plan activities.

Jurisdictional leaders and community stakeholders involved in 10-Year Plans activities are a natural connection and foundation and:

- ❖ Re-prioritize local government resources
- ❖ Hasten creation of community partnerships
- ❖ Catalyze media interest
- ❖ Connect provider agencies operating in silos
- ❖ Mobilize corporate / local business resources

Political / Civic Will: Best Practices in Leadership

- **San Francisco Mayor created the first PHC by taking city staff and programs from City Hall to where homeless consumers live.**
- **Jurisdictions adopted PHC to support 10-Year Plan activities that reduce and end homelessness.**
- **Lead PHC sponsors now include universities, businesses, communities, faith groups, and professional sports teams.**

As is the case in the development of 10-Year Plans, partnership of the public and private sectors is essential. They offer complementary resources and access.

Government partners include:

- 1. City agencies**
- 2. County agencies**
- 3. State agencies**
- 4. Federal agencies**

Services Provided

Massage Therapy

Hair Cuts

Veterinarian Services

Housing Services

Medical Services

Food/Food Pantry

Job Services

Eye care

Vet Services

Substance Use Disorder Services

Public Assistance

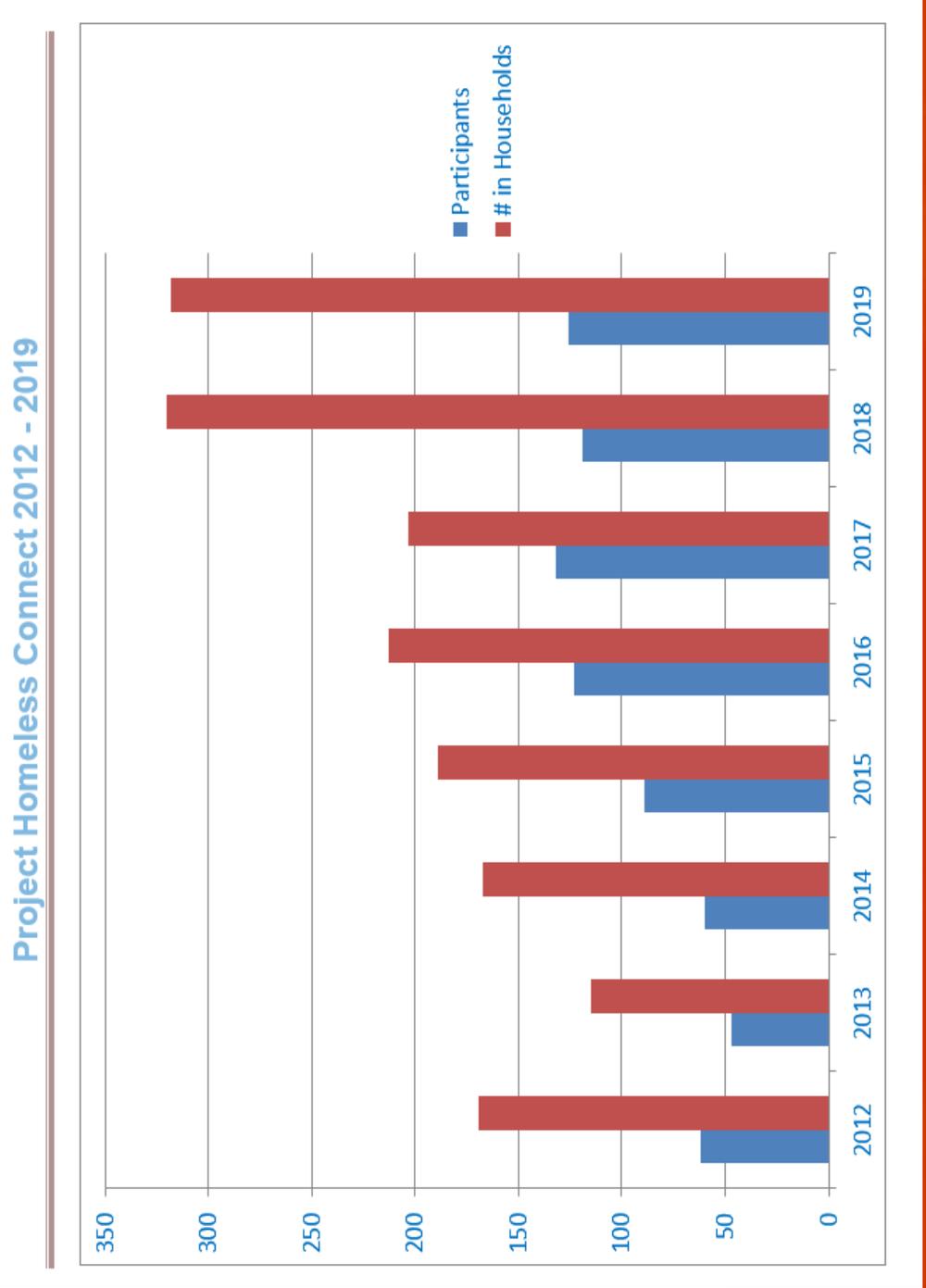
Phone Services

Showers/Laundry Services

Prayer service

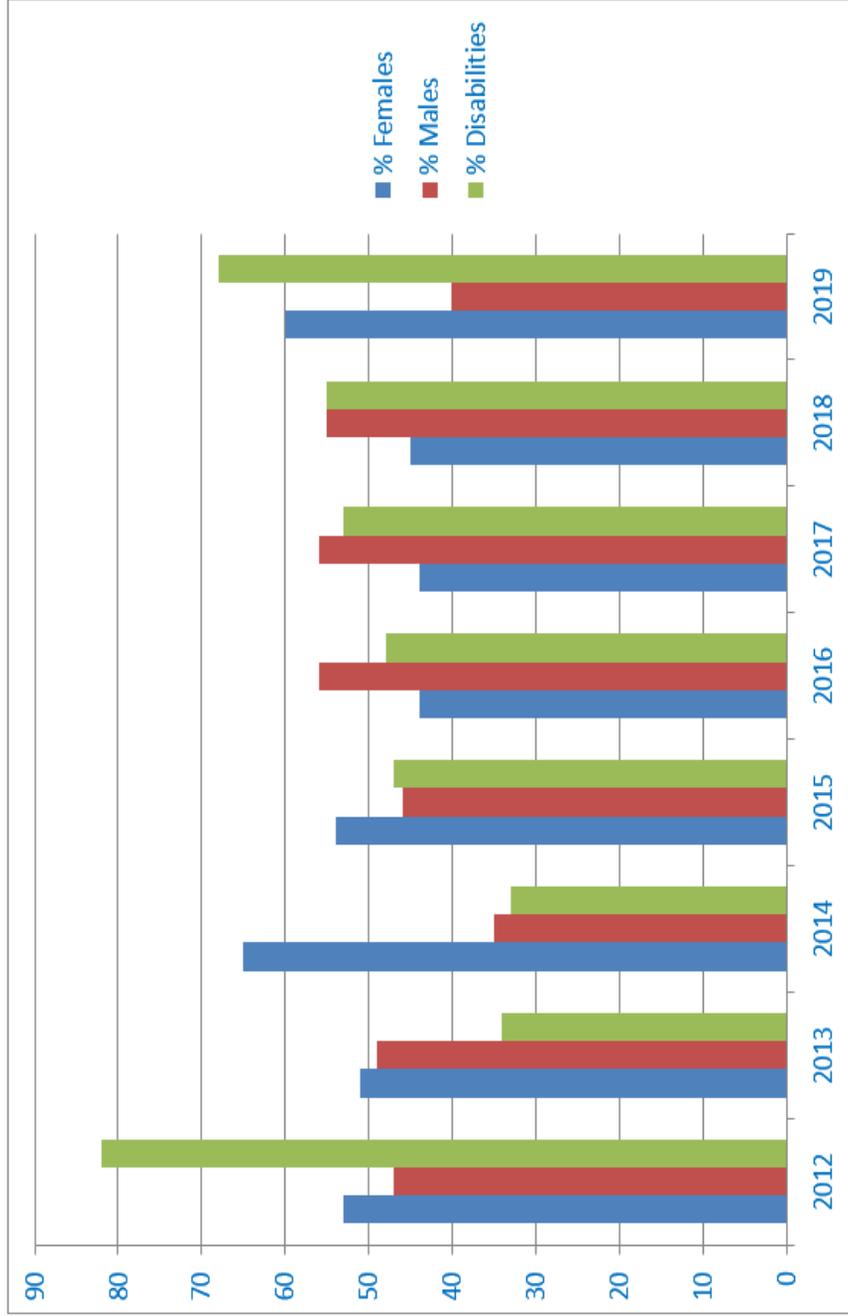


Kenai Peninsula Project Homeless Connect Data 2012-2019



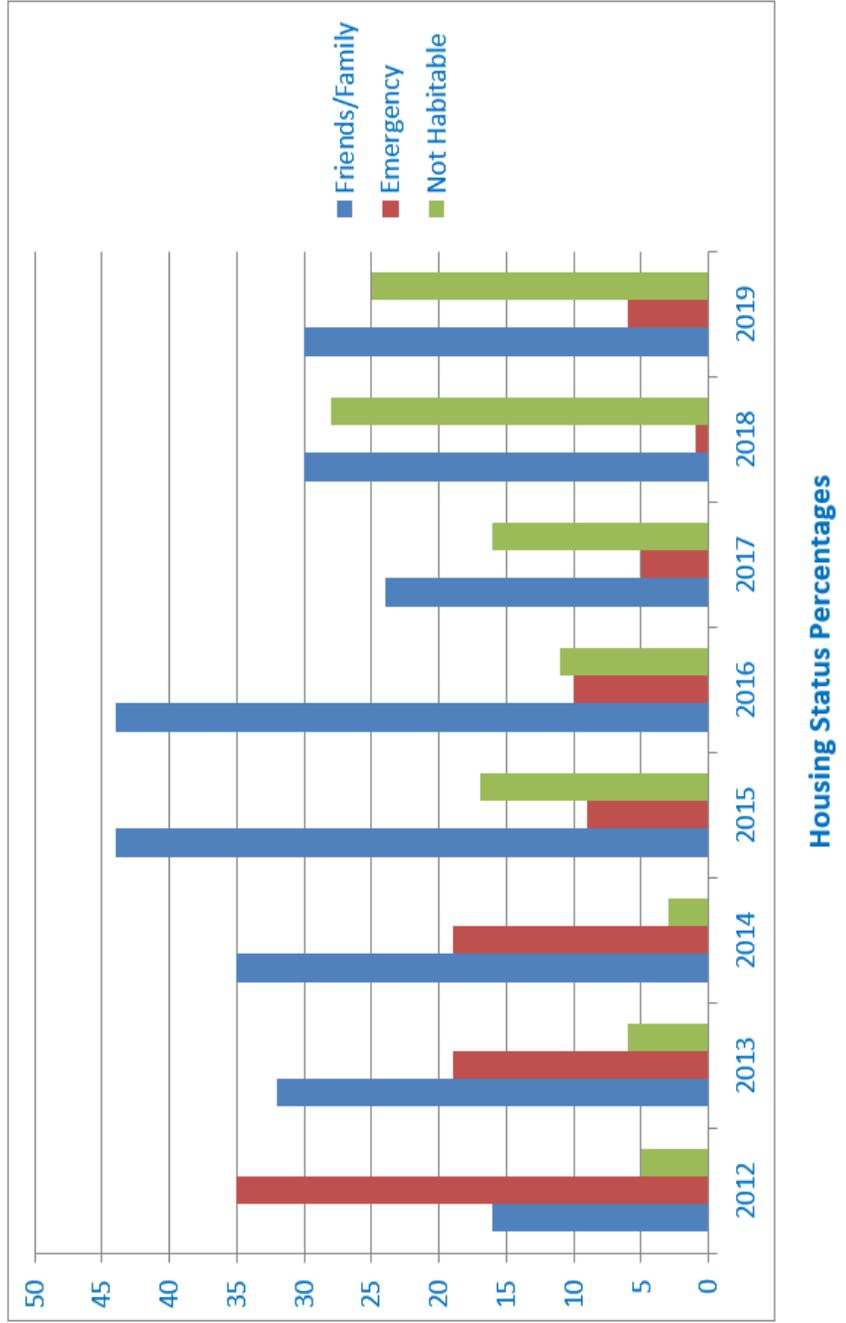
Kenai Peninsula Project Homeless Connect Data 2012-2019

Project Homeless Connect 2012 - 2019



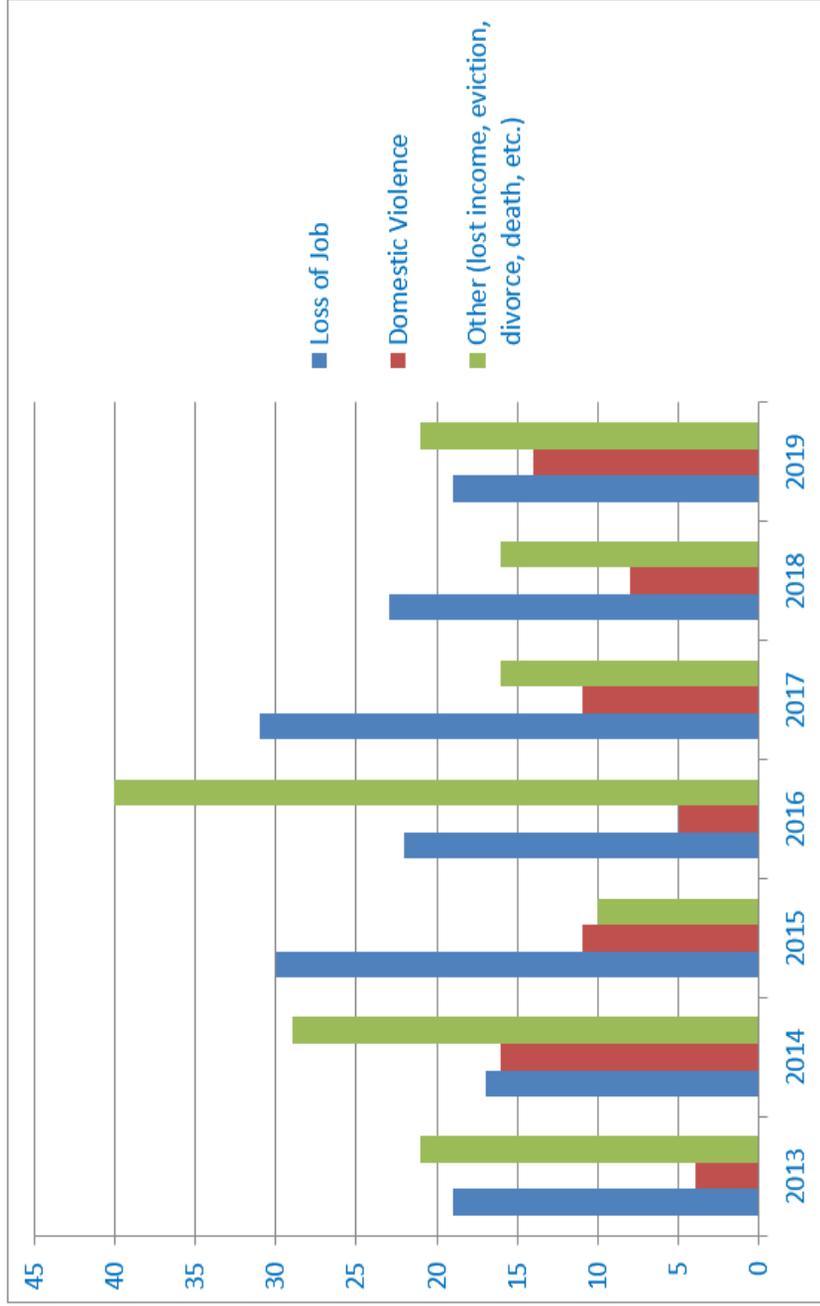
Kenai Peninsula Project Homeless Connect Data 2012-2019

Project Homeless Connect 2012 - 2019



Kenai Peninsula Project Homeless Connect Data 2012-2019

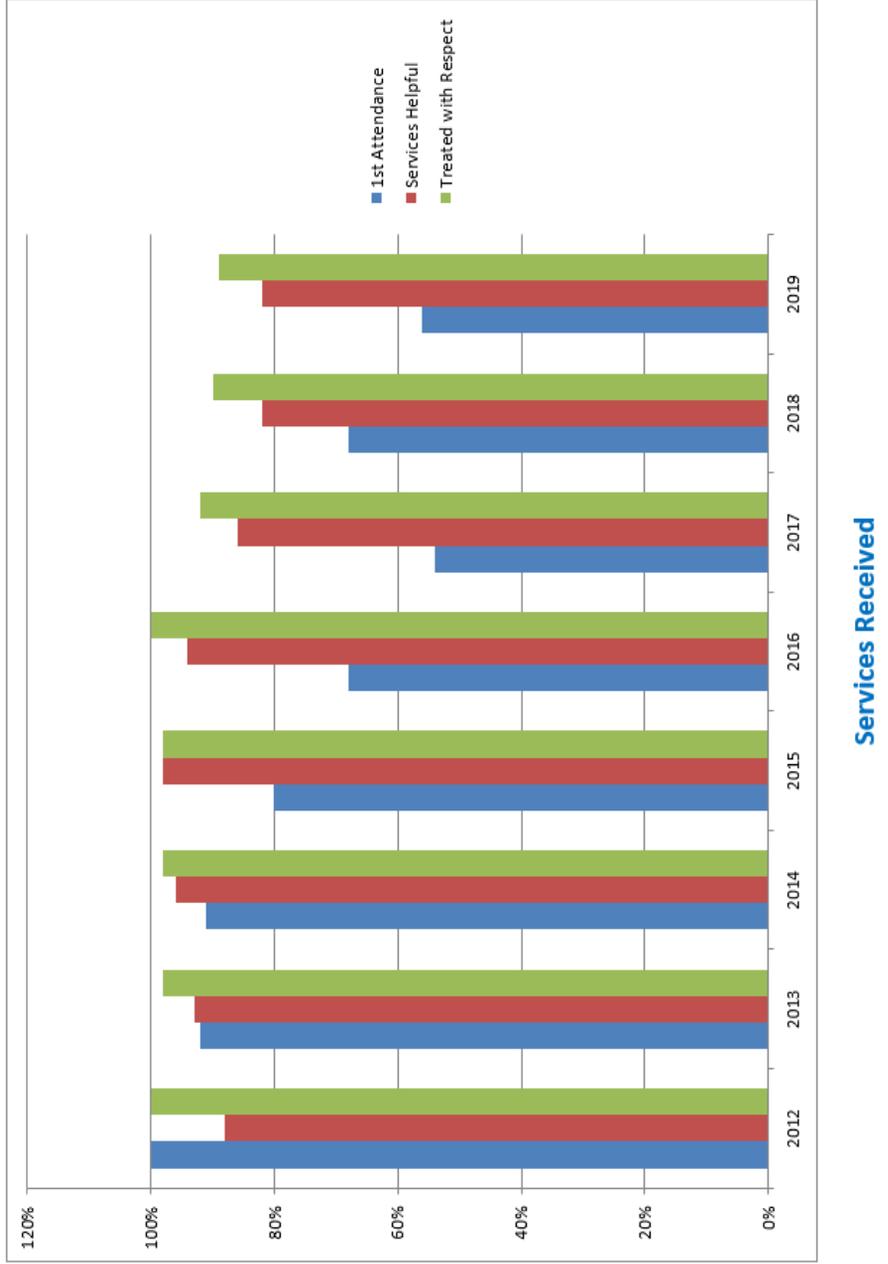
Project Homeless Connect 2012 - 2019



Primary Reason for Homelessness

Kenai Peninsula Project Homeless Connect Data 2012-2019

Project Homeless Connect 2012 - 2019



2019 Data Extrapolation

- 126 individuals participated
- 318 individuals impacted by PHC
- 58% currently were experiencing homelessness
- 68% experience alcohol abuse, developmental disability, drug use, HIV/AIDS, mental health issues, physical disabilities
- 19% of participants stated they were homeless due to loss of job
- 1% of participants stated they were homeless due to jail/prison release
- 16% of participants stated they were homeless due to domestic violence
- 89% of participants stated would use a cold weather shelter if available
- 11% were US Military Veterans
- 6 pets received services (5 dogs/1 cat)

Comments that concern us...

- "One day a year is not enough; pathetic"
- "Need shelter in community"
- "Transportation-need buses"
- Services needed that were not provided: Transportation, Red Cross, low income housing, child care information, OCS, SSA
- Need a two day event
- 97% stated they would use a community bus route system if provided
- 40% were interested in Narcan kits
- 18% stated they had been in the foster care system

9TH ANNUAL
2020 PHC
JANUARY 29, 2020
9-3PM

SOLDOTNA SPORTS COMPLEX

Thank you for allowing us to
speak today.
At Project Homeless Connect, we
believe that no one deserves to
lose hope.

Questions?



KENAI PENINSULA

2019 PROJECT HOMELESS CONNECT REPORT



No one deserves to lose hope

The Homeless Action Coalition is proud to report on the Kenai Peninsula’s 8th Annual Project Homeless Connect event held at the Soldotna Sport’s Center on January 23, 2019. Our success is due to the collaborative effort between service providers, the private sector, volunteers, and the community members.

A special thank-you to the following:

- Event Co-Chairs: Kathy Gensel & Frank Alioto
- Donations: Melissa Kline & Kellie Bartelmay
- Publicity: Jodi Stuart, Melissa Kline & Maggie Winston
- Food: Terrie Kunz & Peggy Rogers
- Provider Services: Leslie Rohr
- Transportation: Brent Hibbert & Taylor Cochran
- Volunteers: Beth Selby
- Fundraising: Kathy Gensel & Marta Czarnezki

Vendors and individuals providing services to homeless individuals (30):

ABC Life Choices	Kenai Peninsula Massage Therapy
Alaska Department of Labor	Kenai Peninsula Re-Entry Coalition
Alaska Housing Finance Corporation	Kenai Public Health
Change 4 the Kenai	Kenai Vet Center
Child Care Assistance Program (LSC)	Kenaitze Indian Tribe
Cook Inlet Council on Drugs and Alcohol	Love, INC.
Division of VOC Rehab	Pam Beard
Dr. Kris Lacy – Central Peninsula Hospital	Peninsula Community Health Services
Freedom House	Shannon Scholl
GCI	SOA Public Assistance
Independent Living Center	Susan Smalley
Kenai Lions	Sylvia Shelton
Kenai Peninsula Borough School District	The Exchange
Kenai Peninsula College	The LeeShore Center
Kenai Peninsula Food Bank	Veterinary Services

Demographics of Population Served

One hundred twenty-six (126) individuals participated in the PHC event. The total household number based on participant input was 318. There were a total of 6 pets (5 dogs & 1 cat) accompanying participants during the event.

A total of 56% reported this was their first time participating in the Kenai Peninsula Project Homeless Connect event.

Gender

	Frequency	Percent
Male	51	40%
Female	75	60%
Trans Female		
Trans Male		
Gender Non-Conforming		
Total	126	100%

Age

	Frequency	Percent
Less than 18		
18 - 24	9	7%
25 - 44	54	43%
45 – 64+	63	50%
Total	126	100%

Race

	Frequency	Percent
American Indian / AK Native	34	27%
Black / African American	1	1%
Hawaiian/Pacific Islander	1	1%
White	90	71%
Asian		
N/A		
Total	126	100%

Ethnicity

	Frequency	Percent
Hispanic or Latino	6	5%
Non-Hispanic / Non-Latino	120	95%
N/A		
Total	126	100%

U.S. Military Veteran

	Frequency	Percent
Yes	14	11%
No	112	89%
Total	126	100%

Household Type

	Frequency	Percent
Adult Household (no children)	94	75%
Household w/adults & children	32	25%
Household w/only youth		
Total	126	100%

Head of Household

	Frequency	Percent
Self	117	93%
Head of Household's partner	5	4%
Head of Household's child	1	1%
Other relation member		
Non-relation member	3	2%
Total	126	100%

Health Insurance

	Frequency	Percent
Yes	113	90%
No	13	10%
Total	126	100%

Disabling Conditions

	Frequency	Percent
Alcohol Abuse	13	15%
Chronic Health Condition	36	42%
Drug Abuse	19	22%
Developmental	8	9%
HIV/AIDS		
Mental Illness	40	47%
Physical	58	67%
Doesn't Know / Refused		

***Percentages above based on 86 individuals (68%) who disclosed one or more conditions affecting ability to retain housing.*

Income Received Last 30 Days

	Frequency	Percent
Alimony/Spousal Support		
TANF	12	18%
Child Support	3	4%
Earned Income	11	16%
General Assistance	12	18%
Pension/Retirement		
Private Disability Insurance		
SSDI (Disability)	15	23%
SSI (Supplemental)	14	21%
Retirement from SSI	3	4%
Unemployment	1	1%
VA Service Disability Compensation	2	3%
VA Non-Service Disability Compensation		
Worker's Compensation	1	1%
Other	11	16%
Doesn't Know / Refused		
No Income	60	48%

***Percentages are based on 66 individuals (52%) who responded with one or more income source*

Victim of Domestic Violence

	Frequency	Percent
Yes	56	44%
No	70	56%
Total	126	100%

***Of the 56 who responded they were victims: 84% were female and 16% were male*

If Yes to Above, Fleeing Domestic Violence

	Frequency	Percent
Yes	9	16%
No	47	56%
Total	56	100%

***Percentages are based on 56 individuals who responded as victims of domestic violence*

Eviction Notice Received This Month

	Frequency	Percent
Yes	9	7%
No	117	93%
Total	126	100%

Prior Project Homeless Connect Events Attended

	Frequency	Percent
1st Time (0 prior)	70	56%
1Time	35	28%
2 Times	9	7%
3 Times	5	4%
4 Times	3	2%
5 Times	2	2%
6 Times		
7 Times		
8 times	2	1%
Total	126	100%

Primary Alaska Regional Corporation

	Frequency	Percent
Ahtna Corp.		
Aleut Corp.		
Arctic Slope Regional		
Bering Straits		
Bristol Bay Native Corp.	5	4%
Calista Corp.	5	4%
Chugach Alaska Corp.		
Cook Inlet Regional	6	5%
Doyon Limited Corp.	2	1%
Goldbelt		
Koniag Incorp.	1	1%
NANA Regional Corp.	3	2%
Sealaska		
Descendant BIA Card Only	1	1%
Other	3	2%
Doesn't Know/Refused	1	1%
N/A	99	79%
Total	126	100%

Slept Prior Night

	Frequency	Percent
Category 1:		
Place not habitable	31	25%
Emergency Shelter	8	6%
Category 2:		
Foster Care / Group Home	2	1%

Jail/Prison, Juvenile Facility	1	1%
Psychiatric Hospital / Facility		
Hospital		
Long-term care/nursing home		
Substance Abuse TX Center		
Category 3:		
Hotel or Motel		
Owned - subsidy	2	1%
Rental – no subsidy	19	15%
Residential or Halfway house	5	4%
Staying w/friends		
Owned – no subsidy	5	4%
Permanent Housing		
Rental – VASH subsidy	1	1%
Rental – other subsidy	9	8%
Living w/family	38	30%
Transitional housing	5	4%
Total	126	100%

Duration of Homelessness

Category 1:		
One night or less	1	1%
Two to six nights	2	2%
1 week or more (less 1 month)	9	7%
1 month or more (less 90 days)	3	2%
90 days or more (less 1 year)	8	6%
One year or more	16	13%
Category 2:		
One night or less		
Two to six nights		
1 week or more (less 1 month)		
1 month or more (less 90 days)		
90 days or more (less 1 year)	3	2%
One year or more		
Category 3:		
One night or less	7	6%
Two to six nights	4	3%
1 week or more (less 1 month)	6	5%
1 month or more (less 90 days)	10	8%
90 days or more (less 1 year)	17	14%
One year or more	40	31%

Homeless Episodes – Past 3 Years

	Frequency	Percent
1 time	25	20%
2 times	12	10%
3 times	7	5%
4 or more	46	37%
Doesn't know / refused		
N/A	36	28%
Total	126	100%

Total Number of Months Homeless in past 3 years

	Frequency	Percent
1 time	18	14%
2 times	10	8%
3 times	10	8%
4 or more	50	40%
Doesn't know / refused		
N/A	38	30%
Total	126	100%

Ever in Foster Care System

	Frequency	Percent
Yes	23	18%
No	103	82%
Total	126	100%

Years in Foster Care

	Frequency	Percent
Weeks		
Months	5	21%
Year(s)	16	70%
N/A	2	9%

***Percentages are based on 23 individuals who responded yes for living in foster care. Years in foster care ranged from 1 year to 18 years*

Supplemental Questions

Number of Individuals in Household

Age 18 and Over	229
Age 17 and Under	89
Total	318

Primary Reason for Homelessness

	Frequency	Percent
Loss of Job	24	19%
Work hours cut	2	2%
Rent / Utility Increase	3	2%
Lease Violation	4	3%
Illness / Injury	18	15%
Substance Abuse	5	4%
Domestic Violence	17	14%
Family Dispute	3	2%
Aged out Foster Care		
Jail / Prison Release	4	3%
Treatment Center Release	1	1%
Loss of Roommate	3	2%
Divorce	5	4%
Eviction	3	2%
New to Community	3	2%
N/A	5	4%
**Other (see below)	26	21%
Total	126	100%

***Other includes: landlord issues, problem with current housing, loss of benefits, lost home to fire, no work, home not habitable, death in family, property taxes, lack of funds, asked to move out, own choice, can't find work, not enough summer work, natural disaster (earthquake)*

Form of Transportation

	Frequency	Percent
Own Vehicle	57	45%
Friend/Family Member	23	18%
Public Transport	8	6%
Taxi	9	7%
Walk / Ride Bike	22	18%
Hitchhike	5	4%
N/A	2	2%
Total	126	100%

How did you get to event today?

	Frequency	Percent
Bus	1	1%
Drove Self	54	43%
Drove w/Others	55	44%
Walked	4	3%
Hitchhiked	3	2%
Taxi	9	7%
Total	126	100%

Would you use a community bus route system?

	Frequency	Percent
Yes	122	97%
No	4	3%
Total	126	100%

Interested in Narcan Kit

	Frequency	Percent
Yes	51	40%
No	75	60%
Total	126	100%

Participant Exit Surveys = 96 out of 126 individuals (76%)

Rating	Excellent	Very Good	Fair	Poor
The event was helpful to me.	79 (82%)	12 (13%)	5 (5%)	
I felt respected and supported.	85 (89%)	10 (10%)	1 (1%)	
Service Providers were friendly and helpful.	94 (98%)	1 (1%)	1 (1%)	
I learned about more resources and services in community.	71 (74%)	2 (2%)	1 (1%)	

For question #4: NA = 10 (10%) and No = 12 (13%)

Participant Exit Questions

Most helpful Services:

PCHS, Lions Club, haircuts, multiple resources in one location, Re-Entry, Needle exchange, Love INC., AHFC, LeeShore, Public Assistance, Narcan kits and phones.

Services Needed but Not Provided:

Transportation, Red Cross, low income housing, child care information, OCS, SSA

Heard About the Event from:

Prior participation, social worker, CICADA, Love INC., Facebook, flyer, probation officer, bulletin board, friend, PCHS, work.

Would you use an Emergency Cold Weather Shelter in community if available?

- Yes = 85 (89%) No = 10 (10%) NA = 1 (1%)

Suggestions for notifying people about the Cold Weather Shelter:

Flyers, radio, word of mouth, internet, newspaper, cell phone alerts, agencies (CICADA, Love INC., LeeShore, Food Bank, Freedom House, Probation, doctor’s offices, PHCS, Public Assistance, Veterans), gas stations, liquor stores, churches, homeless camps, grocery stores, laundry mat.

Other Comments:

- Awesome event – appreciative
- Wonderful event
- You guys are awesome – more transportation

- 2 day event on weekend
- Good event – disappointed in Food Bank options
- Amazing event
- You guys are so good
- Need shelter in community
- Thank you
- Keep doing what you are doing – great work
- Thank you
- Keep it up
- Transportation – need buses
- Awesome job
- Great time
- One day a year is not enough; pathetic
- Awesome
- Thanks
- All was very good
- Good thing
- Have a Legal Aid booth
- Bus system
- Thanks to all
- Very happy
- Keep up the good work – twice a year



Our gratitude and thanks to all the following volunteers, vendors, and donors who helped make this event possible!

VOLUNTEERS

Agnes Nunn	Grey Meyer	Sally Oelrich
Allie McGahan	Hal Smalley	Serena Borofsky
Andy Knapp	Kelly Whitmore	Sharon Isaak
Andrea Hopper	Kit Hill	Sharon Kelly
Annette Hubbard	Kris Harris	Howard Hill
Ariane Jasmin	Kris Lacy	Jacquelyn LaPlante
Ashley Blatchford	Lee Anne Clifton	Jane Dunn
Audrey Cucullu	Leslie Rohr	Janice Villegas
Bailey Buchholz	Lin Kennedy	Jeannie Morse
Barb Norbeck	Linda Kendall	Jenna Barry
Bessie Phillips	Lindsey Anasogak	Jenna Thomas
Beth Selby	Lizz Giver	Jerry Rombach
Bobbi Stelljes	Lona Lohmann	Jeryl Ann Aspelund
Brenda Ahlberg	Lucinda Martin	Jessica O'Reagan
Brenda Chamness	Maggie Winston	Jessie Huett
Brenner Musgrave	Margie McCord	Jodi Stuart
Bridget Appow	Marie Weller	Karen Martin Tichenor
Caitlin Sparks	Marilyn Pitts	Karen Tollackson
Carmen Romero	Mary Bell	Kate Veh
Carol Anderson	Marquitta Andrus	Kathy Gensel
Cayla Boettcher	Melissa Daugherty	Kaye Reed
Charles Simons	Melissa Kline	Kellie Bartelmay
Cheri Smith	Meredith Harber	Kelly King
Cindy Rombach	Michelle Blackwell	Shelly Saner
Calvin Bollig	Michelle Stewart	Sherra Pritchard
Colleen Evanco	Midnight Son Seventh-Day Adventist Church	Sherry Martinovich
David Ahlberg	Mike Morgan	Stan Saner
David Gruber	Mike Petty	Stan Steadman
Dawn Kelly	Morganette Finch	Summer Hall
Denise Tank	Nancy Henning	Susie Smalley
Derek Black	Natalya Oskolkoff	Taylor Cochran
Doreen Borkowski	Nathan Grilley	Tera Michlitsch
Doug Grzybowski	Pamela Howard	Terri Cowart
Eden Deatherage	Patty Eissler	Terri Kunz
Elaina Spraker	Paul Lorenzo	Tina Minster
Emily Alvey	Peggy Rogers	Todd Shumway
Emily Knight	Richard Oelrich	Tony Cloud
Emily O'Reagan	Richard Tews	Tonya Lee
Erin Martin	Robin Barry	Trudi Glenn
Felicity Giver	Robin Bennett	Twyla Mundy
Fred Koski	Ron Engebretson	Victoria Thompson
Gensel, Dan	Ronda Oglesby	Wendy Gruber
Georganne Roberts		

IN-KIND DONATIONS

Alaska Christian College	Kenai Lions Club
Alaska's Best Water	Kenai Peninsula Food Bank
Arby's	Kenai Soldotna Imagination Library
Aspen Hotel	Kyle Kornelis
Bird's Eye View	Lauri Lingafelt
Bob Molloy	Lisa Parker
Brekke Hewitt	Melanie Imholte
Brenda Ahlberg	Merrill Sikorski
Bryan Taylor	Papa John's Pizza
Central Peninsula Hospital	Paul Whitney
Coke – Odem Corporation	Peninsula Clarion
Eden Alioto	Peninsula Pediatric Dentistry
Everything Bagels	Peter Mlynarik
Fine Thyme	Ridgeway Family Dentistry
Fred Meyer	Robert Peterkin
Funny River Community Center	Save U More
Gental Dental	Shellie Saner
Jamie Heinz	Soldotna Rotary
Barely Threaded	SportsMed Alaska
Jessica O'Reagan	Stormy Brown
John Czarnezki	Sue Linn
Kaladi Brothers Coffee	Three Bears
Katja Wolfe	Tim Cashman
Kayla Feltman	Tina Williamson
KDLL	Twin City Raceway Lions Club
Kenai Centennial Savvy Lions Club	Walgreens

CASH DONATIONS

In Memory of Thomas Woodward	Kenai Peninsula Journey Home
GCI	Barclay Donation
City of Kenai	Duck Inn
Alaska Mental Health Trust	Fred Meyer's
Inmate Sculpture's sold at auction	Lorraine Rohloff
Kenai Peninsula Community Foundation	

We sincerely apologize if we have missed any donor or volunteer

Endnote: Data was secured through the PHC event held on January 23, 2019.

Introduced by: Mayor
Date: 12/03/19
Hearing: 01/07/19
Action:
Vote:

**KENAI PENINSULA BOROUGH
ORDINANCE 2019-38**

AN ORDINANCE APPROVING AND ACCEPTING \$13,738.95 FROM THE STATE OF ALASKA DIVISION OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT TO REIMBURSE REPAIRS AT THE TEBUGHNA SCHOOL RESULTING FROM THE NOVEMBER 30, 2018 COOK INLET 7.0 EARTHQUAKE

WHEREAS, on November 30, 2018 at 8:29 am a 7.0 earthquake shook from an epicenter five miles north of Anchorage which was felt across Southcentral Alaska; and

WHEREAS, as a result of the earthquake, the Tebughna School suffered a substantial loss of ceiling tiles in the gym; and

WHEREAS, the borough appropriated \$450,000 from the general fund for disaster response and recovery by way of ordinance 2018-19-26; and

WHEREAS, the Federal Disaster Declaration DR-4413 approved eligible expenses associated with response, recovery and mitigation to be reimbursed by the Federal Emergency Management Agency and the State of Alaska through the Public Assistance Program (FEMA PA); and

WHEREAS, the borough has submitted eight project applications through the FEMA PA program for damages sustained to borough facilities; and

WHEREAS, the incurred and estimated costs to complete response, recovery or mitigation for the Tebughna School debris removal totaling \$13,738.95 will be reimbursed to the borough as a 75% federal pass-thru and a 25% state-matching grant awarded by the State of Alaska Division of Homeland Security & Emergency Management; and

NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

SECTION 1. That the mayor is authorized to accept grant funds totaling \$13,738.95 from the State of Alaska Division of Homeland Security & Emergency Management for the November 30, 2018 Cook Inlet 7.0 Earthquake, Federal Disaster Declaration DR4413.

SECTION 2. That the mayor is authorized to negotiate, administer and execute on behalf of the borough the applicant agreement package for disaster presently identified as the November 30, 2018 Cook Inlet 7.0 Earthquake, Federal Disaster Declaration DR4413, and to negotiate, execute, and administer any other documents, agreements, and contracts required under or related to the grant agreements including without limitation the Assurances and Agreements, the Summary of Grant Conditions for All Applicants, and the Indemnity and Hold Harmless Agreement required as a condition of the grant agreements and any subsequent grant amendments.

SECTION 3. That the \$450,000 appropriation from the general fund for disaster response and recovery by way of ordinance 2018-19-26 are project length nature and as such do not lapse at the end of any particular fiscal year.

SECTION 4. The Kenai Peninsula Borough agrees that upon award assistance through the Alaska Division of Homeland Security & Emergency Management as described in this ordinance it shall waive its sovereign immunity to the extent required by paragraph 27 of the DHS&EM Form 30-57f State Assurance and Agreements and be subject to suit for actions arising out of the project activities for the November 30, 2018 Cook Inlet 7.0 Earthquake disaster in the same manner, and to the same extent as any person and shall not be immune or exempt from any administrative or judicial process, sanction or judgement.

SECTION 5. That this ordinance shall be effective upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS * DAY OF *, 2020.

Kelly Cooper, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

Yes:

No:

Absent:

Kenai Peninsula Borough Community & Fiscal Projects

MEMORANDUM

TO: Kelly Cooper, Assembly President
Members of the Kenai Peninsula Assembly

THRU: Charlie Pierce, Mayor *CP*
Brandi Harbaugh, Finance Director *BH*
Dan Nelson, Senior Manager - OEM *DN*

FROM: Brenda Ahlberg, Community & Fiscal Projects Manager *Ba*

DATE: November 21, 2019

SUBJECT: Ordinance 2019- 38, Approving and Accepting \$13,738.95 from the State of Alaska Division of Homeland Security & Emergency Management to Reimburse Repairs at the Tebughna School Resulting from the November 30, 2018 Cook Inlet 7.0 Earthquake (Mayor)

This ordinance accepts money from the State of Alaska Division of Homeland Security & Emergency Management (AKDHSEM) for costs incurred or to be incurred in responding to the November 30, 2018 Cook Inlet 7.0 Earthquake, Federal Disaster Declaration DR4413. The funds were previously appropriated by way of Ordinance 2018-19-26. The project application and approved grant is managed through the Federal Emergency Management Agency online system named Grants Portal, and the award agreement created through the AKDHSEM.

The approved expenses associated with response, recovery and mitigation that are eligible for reimbursement by the Federal Emergency Management Agency (75% share) and the State of Alaska (25%) through the FEMA Public Assistance Program totals \$13,738.95 for the Tebughna School project worksheet 0064 (PW64).

Attachment: award letter

FINANCE DEPARTMENT ACCOUNT VERIFIED	
Account:	<u>260-71140-19EQ1-49999</u>
Amount	<u>\$ 13,738.95</u>
By: <i>PP</i>	Date: <u>11/21/2019</u>



THE STATE
of **ALASKA**
GOVERNOR MICHAEL J. DUNLEAVY

**Department of Military and
Veterans Affairs**

Division of Homeland Security and
Emergency Management

P.O. Box 5750
JBER, AK 99505-0800
Main: 907.428.7000
Fax: 907.428.7009
ready.alaska.gov

October 30, 2019

Dan Nelson, Emergency Manager
Kenai Peninsula Borough
253 Wilson Lane
Soldotna, AK 99669

RE: Obligating Award Document
Disaster: DR-4413-AK, 2018 Cook Inlet Earthquake
Subrecipient: Kenai Peninsula Borough
PA ID: 122-00276-00
Project Worksheet(s): 0064

Certified Mail: 9171 9690 0935 0210 4309 77

Mr. Nelson:

Enclosed is your initial Grant Award Package for Project Worksheet (PW) 0064 under DR-4413-AK, 2018 Cook Inlet Earthquake.

Two pre-signed Obligating Award Documents (OAD), Grant Requirements Form and the Assurances and Agreements Forms are enclosed; one is for your records, the other is for ours. Please return one set of the original signed forms to our office by November 13, 2019

Please note the following signature guide:

- Obligating Award Document: Three subrecipient signatures on the front page plus one subrecipient signature on the back page.
- Grant Requirements Form: Three subrecipient signatures on the back page.
- Assurances and Agreements Form: Initial all 37 numbered paragraphs and provide one subrecipient signature, on page five.

No payments will be processed until we receive our copy of the signed forms.

Mr. Nelson
Page 2 of 2
October 30, 2019

If you have any questions, please contact Brian Fisher, your assigned Division Representative, at 907-428-7014 or by email at brian.fisher@alaska.gov.

Sincerely,



Paul Nelson
Alternate Governor's Authorized Representative

Enclosure(s): (2 Originals) Obligating Award Documents
(2 Originals) Grant Requirements Forms
(2 Originals) Assurances and Agreements Forms
Project Worksheet 0064

Introduced by: Mayor
Date: 12/03/19
Hearing: 01/07/20
Action:
Vote:

**KENAI PENINSULA BOROUGH
ORDINANCE 2019-33**

**AN ORDINANCE AMENDING KPB 20.10.030 AND 20.90.010 TO CLARIFY
APPLICABILITY OF SUBDIVISION REQUIREMENTS**

- WHEREAS**, borough code Title 20 relates to the subdivision of land within the Kenai Peninsula Borough; and
- WHEREAS**, language within Title 20 pertaining to subdivision requirements for transfers of land can be interpreted to include land leases; and
- WHEREAS**, borough subdivision requirements are not appropriate for certain land lease types, such as communication tower leases or agricultural leases, where the lessee only desires to use a portion of a larger parcel of land; and
- WHEREAS**, the subdivision of land solely for leases would potentially create undesirable tracts of land that require multiple exceptions to subdivision requirements and that are not suitable for conveyance; and
- WHEREAS**, Kenai Peninsula Borough Comprehensive Plan Goal 2, Focus Area: Land Use and Changing Environment, Objective A is to establish policies that better guide land use to minimize land use conflicts, maintain property values, protect natural systems and support individual land use freedoms; and
- WHEREAS**, Kenai Peninsula Borough 2019 Comprehensive Plan Goal 2, Focus Area: Land Use and Changing Environment, Objective C is to guide land use at the regional scale to promote economic development, improve public roads and other services and facilities, and maintain environmental quality; and
- WHEREAS**, exempting land leases from subdivision requirements furthers the Kenai Peninsula Borough 2019 Comprehensive Plan Goal 2, Focus Area: Land Use and Changing Environment, Objectives A and C; and
- WHEREAS**, the Kenai Peninsula Borough Planning Commission held a public hearing on December 16, 2019, and recommended _____;

NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

SECTION 1. That KPB 20.10.030 is hereby amended to read as follows:

20.10.030. Subdivisions – General Provisions – Violations and Remedies.

- A. No person shall transfer, sell, offer to sell, or enter into a contract to sell land that must be subdivided under this ordinance until an approved final plat has been recorded. For purposes of this provision the term “transfer” means transfer of ownership and does not include a lease, license or permit.

SECTION 2. That KPB 20.90.010 is hereby amended to read as follows:

20.90.010. Definitions.

...

"Subdivision" means the division of a tract or parcel of land into two or more lots, or other divisions for the purpose of sale or building development, and includes resubdivision and relates to the process of subdividing or to the land or areas subdivided. As used in this Chapter, it also includes the elimination of lot lines. A designation of boundaries of a portion of a parcel of land solely for the purpose of a land lease is not a subdivision.

...

SECTION 3. This ordinance shall become effective immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS * DAY OF *, 2020.

Kelly Cooper, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

Yes:

No:

Absent:

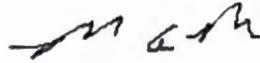
Kenai Peninsula Borough

Planning Department – Land Management Division

MEMORANDUM

TO: Kelly Cooper, Assembly President
Members, Kenai Peninsula Borough Assembly

THRU: Charlie Pierce, Mayor CP
Max Best, Planning Director MB
Scott Huff, Platting Manager SH

FROM: Marcus Mueller, Land Management Officer 

DATE: November 21, 2019

RE: Ordinance 2019-33, Amending KPB 20.10.030 and KPB 20.90.010 to Clarify Applicability of Subdivision Requirements (Mayor)

KPB Title 20 governs matters related to the subdivision of land within the Kenai Peninsula Borough. Language within this title has caused uncertainty about whether leases must meet subdivision requirements. To promote the efficient use of land within the borough, the land management division recommends that clarifying language be adopted to exempt leases from subdivision requirements.

KPB 20.10.030(A) provides that, "No person shall transfer, sell, offer to sell, or enter into a contract to sell land that must be subdivided under this ordinance until an approved final plat has been recorded." This language can be interpreted to apply to leases. This ordinance would clarify that KPB 20.10.030(A) does not apply to land leases.

Other Alaska municipalities have adopted similar language by either excepting leases from their subdivision requirements or defining the parameters for when leases would need to meet subdivision requirements. The proposed language is very similar to the language used by the Ketchikan Gateway Borough and the City and Borough of Juneau.

Currently, the borough requires itself to subdivide prior to leasing a portion of a piece of borough property. Due to efficiency and logistical issues, subdivision prior to leasing is not always in the best interest of the borough. Currently the borough does not affirmatively enforce private leases that strictly speaking would need to meet borough subdivision requirements. Exempting leases from the

Page -2-
November 21, 2019
RE: Ordinance 2019-33

applicability of the subdivision requirements would provide clarity and allow for consistent treatment of leases.

If the borough continues to require subdivision prior to leasing a portion of larger parcels of land, it will result in subdivision of small lease areas within larger parcels. These subdivided areas for lease purposes would often be undesirable tracts of land and, under the current code, these tracts would require numerous exceptions to the subdivision requirements. Specific to communication tower sites, requiring subdivision is a burden that will cost the borough in lost revenue opportunity and also burden the development of communications systems.

In addition, requiring leases to meet subdivision requirements impacts private enterprise. Where a landowner wants to lease a small area of a larger parcel, requiring subdivision can leave the landowner with the option of either having to lease the entire parcel, even if the tenant is not in need of the entire parcel, or creating an undesirable tract to encompass the lease area which may only be used for a limited term. Such an option fails to promote the efficient use of land.

Your consideration of this ordinance is appreciated.

Introduced by: Mayor
Date: 12/03/19
Hearing: 01/07/20
Action:
Vote:

**KENAI PENINSULA BOROUGH
ORDINANCE 2019-34**

**AN ORDINANCE AMENDING KPB 21.46.040 TO CREATE THE KALIFORNSKY
CENTER SINGLE FAMILY RESIDENTIAL R-1 LOCAL OPTION ZONING DISTRICT
ON AN APPROXIMATELY 55-ACRE BOROUGH-OWNED PARCEL**

- WHEREAS,** the borough has created several local option zoning districts under KPB 21.44 in conjunction with the platting and sale of subdivision lots; and
- WHEREAS,** the borough encourages the private sector to develop residential subdivisions; and
- WHEREAS,** the borough owns an approximately 55-acre parcel off Kalifornsky Beach Road that is appropriate for single family residential use; and
- WHEREAS,** on April 2, 2019, the assembly approved resolution 2019-020, which classified this property as residential; and
- WHEREAS,** Goal 2, Focus Area: Land Use, Objective A of the borough's comprehensive plan is to establish policies that better guide land use to minimize land use conflicts, maintain property values, protect natural systems and support individual land use freedoms; and
- WHEREAS,** Goal 3, Focus Area: Housing, Objective A, Strategy 1 is, in part, to identify Borough lands that are most suitable for residential development; and
- WHEREAS,** the Kalifornsky Advisory Planning Commission reviewed this ordinance at its regularly scheduled meeting of _____, 2019 and recommended _____; and
- WHEREAS,** the Kenai Peninsula Borough Planning Commission reviewed this ordinance at its regularly scheduled meeting of December 16, 2019 and recommended _____; and

**NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI
PENINSULA BOROUGH:**

SECTION 1. That the assembly finds the adoption of the Kalifornsky Center Local Option Zoning District ("LOZD") to be consistent with surrounding land uses and the KPB Comprehensive Plan.

SECTION 2. That KPB 21.46.040 is hereby amended as follows:

21.46.040. Single-Family Residential (R-1) Districts.

A. The following Single-Family Residential (R-1) districts and official maps are hereby adopted:

...

13. Kalifornsky Center is described as follows:

Tract A, Kalifornsky Center Subdivision, according to Plat 2020- , Kenai Recording District.

a. The local option zoning applies to any further replats within the Kalifornsky Center LOZD.

SECTION 3. The assembly hereby waives the requirements of KPB 21.44.040 through KPB 21.44.060 with regards to establishment of the Kalifornsky Center LOZD.

SECTION 4. That the Kalifornsky Center LOZD shall be recorded in the proper recording district.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS * DAY OF *, 2020.

Kelly Cooper, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

Yes:

No:

Absent:

Kenai Peninsula Borough Planning Department

MEMORANDUM

TO: Kelly Cooper, Assembly President
Members, Kenai Peninsula Borough Assembly

THRU: Charlie Pierce, Mayor *CP*
Max Best, Planning Director *MB*

FROM: Bruce Wall, Planner *BW*

DATE: November 21, 2019

RE: Ordinance 2019-34, Amending KPB 21.46.040 to Create the Kalifornsky Center Single Family Residential R-1 Local Option Zoning District on an Approximately 55-Acre Borough-Owned Parcel (Mayor)

A 55-acre borough-owned parcel off Kalifornsky Beach Road was classified as residential on April 2, 2019 via resolution 2019-020 in anticipation of its eventual sale. This property is now proposed for sale during the 2020 KPБ sealed bid land sale. The area adjacent to the parcel is subject to significant residential use. The borough has previously subdivided and sold lots after creating residential local option zoning districts for subdivisions.

The borough has also previously created a residential local option zoning prior to subdividing land so that the private sector can develop the subdivision, as is being done with this proposed LOZD. The standard formation requirements are waived for the formation of the LOZD. However, the KPB 21.44 standards applicable to a single-family residential zoning district will remain applicable for the subdivision.

Your consideration of this ordinance is appreciated.

Kenai Peninsula Borough Planning Department

MEMORANDUM

TO: Kelly Cooper, Assembly President
Members, Kenai Peninsula Borough Assembly

THRU: Charlie Pierce, Mayor CP
Max Best, Planning Director MB

FROM: Bruce Wall, Planner BW

DATE: December 26, 2019

RE: Ordinance 2019-34, Amending KPB 21.46.040 to Create the Kalifornsky Center Single Family Residential R-1 Local Option Zoning District on an Approximately 55-Acre Borough-Owned Parcel (Mayor)

Staff requests that the assembly table this item until after the plat is recorded to allow the ordinance to be amended to include the plat number in the legal description of the property.

Once the plat is recorded, staff will request that the ordinance be removed from the table.

MEMORANDUM

TO: Kelly Cooper, Assembly President
Kenai Peninsula Borough Assembly Members

THRU: Charlie Pierce, Borough Mayor 

FROM: Max J. Best, Planning Director 

DATE: December 19, 2019

RE: Ordinance 2019-34; An Ordinance Amending KPB 21.46.040 to Create the Kalifornsky Center Single Family Residential R-1 Local Option Zoning District on an Approximately 55-Acre Borough-Owned Parcel

The Kenai Peninsula Borough Planning Commission reviewed the subject Ordinance during their regularly scheduled December 16, 2019 meeting.

A motion passed by unanimous consent to recommend approval of the creation of the Single-Family Residential District for Kalifornsky Center Subdivision.

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

Whereas, the Kalifornsky Advisory Planning Commission reviewed this ordinance at its regularly scheduled meeting of December 2, 2019 and recommended approval; and

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

WHEREAS, the Kenai Peninsula Borough Planning Commission reviewed this ordinance at its regularly scheduled meeting of December 16, 2019 and recommended approval by unanimous consent;

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

AGENDA ITEM F. PUBLIC HEARING

5. An application for the formation of a Single-Family Residential (R-1) local option zoning district (LOZD) for the proposed Kalifornsky Center Subdivision in the Kalifornsky area. Legal Description: A portion of the North ½ Northeast ¼, Section 26, Township 5 North, Range 11 West, Seward Meridian. Location: The south end of Ravenwood Street N.

Staff Report given by Bruce Wall

PC MEETING: December 16, 2019

Ordinance 2019-34 would amend KPB 21.46.040 to create the Kalifornsky Center Single-Family Residential (R-1) local option zoning district. This is on a 55-acre parcel owned by the Kenai Peninsula Borough. The Kalifornsky Advisory Planning Commission meet on this on December 2, 2019 and recommended approval. This land was classified last year as residential and the borough is now proposing to sell the land. The plan is to sell it to a developer that would then develop the subdivision with the assurance that it will developed as residential instead of industrial or commercial. Land Management is requesting it be zoned as Single-Family Residential at this time.

In the Ordinance there is a provision that elements some of the application steps. Normally twelve lots are required to create a local option zoning district but because this is intended to be sold as a single parcel to a developer those application requirements do not make sense. This ordinance will remove those requirements for this local option zoning district.

The map on page 98 of the packet shows the outline of the proposed district. It appears to be an odd shape but when reviewing it with the submitted preliminary plat, found on page 99 of the packet, the design makes sense with the proposed street alignments for the property. The 55 acres are part of a larger 240-acre property.

Marcus Mueller is present and representing Kenai Peninsula Borough Land Management and would be available for questions.

END OF STAFF REPORT

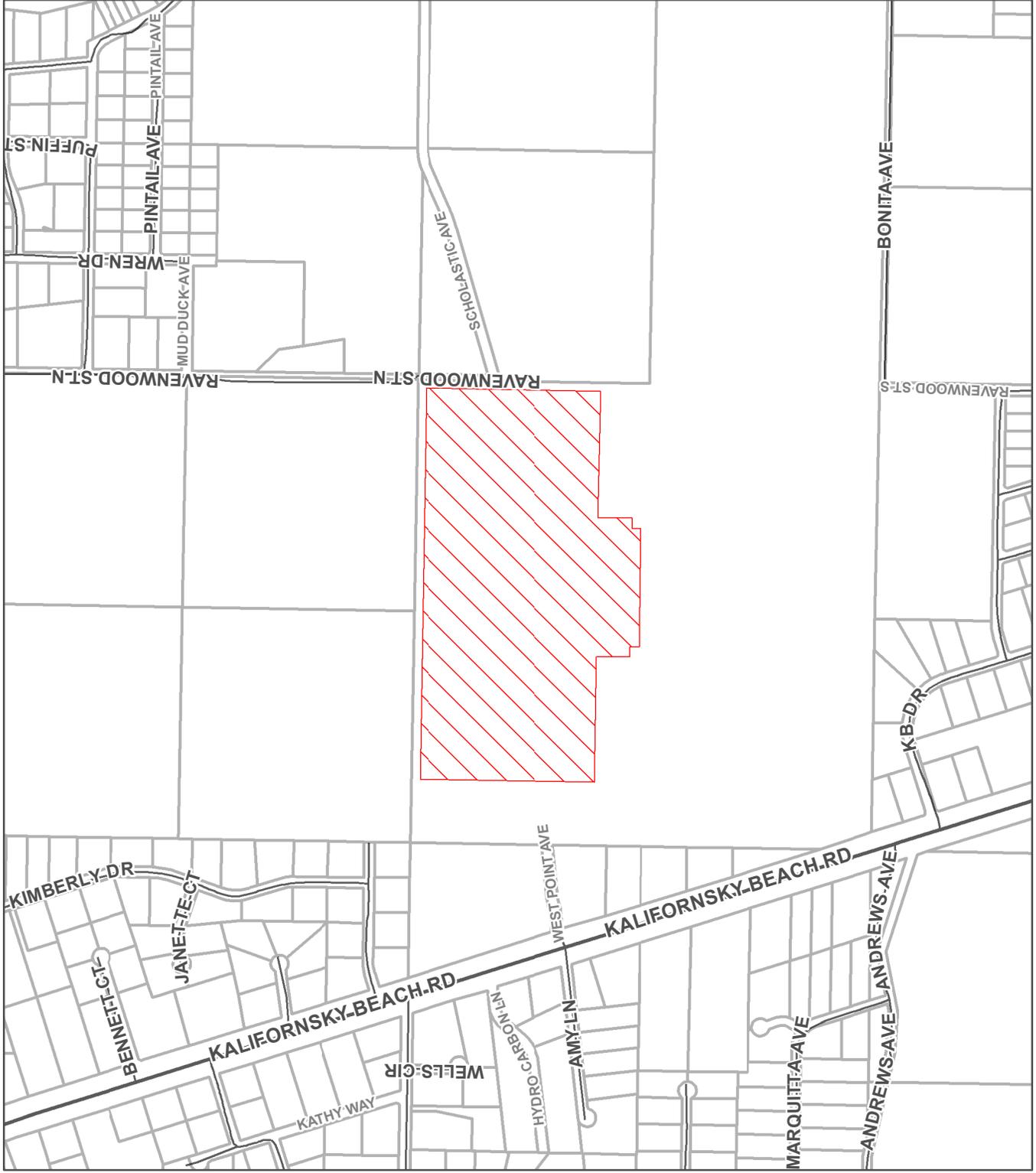
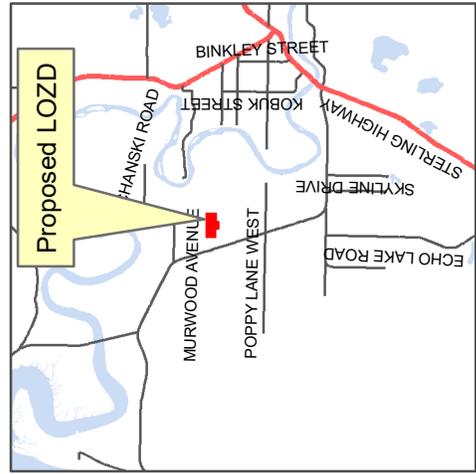
Chairman Martin asked if anyone from the public wished to comment on this item. Seeing and hearing no one wishing to comment, Chairman Martin closed public comment and opened discussion among the Commission.

MOTION: Commissioner moved Whitney, seconded by Commissioner Ecklund, to forward the application to the Assembly with the recommendation to approve the creation of the Single-Family Residential District for Kalifornsky Center Subdivision.

MOTION PASSED: Seeing and hearing no discussion or objection, the motion passed by unanimous consent.

Proposed Local Option Zoning District

Kalifornsky Center LOZD Single-Family Residential (R-1) District



LEGEND

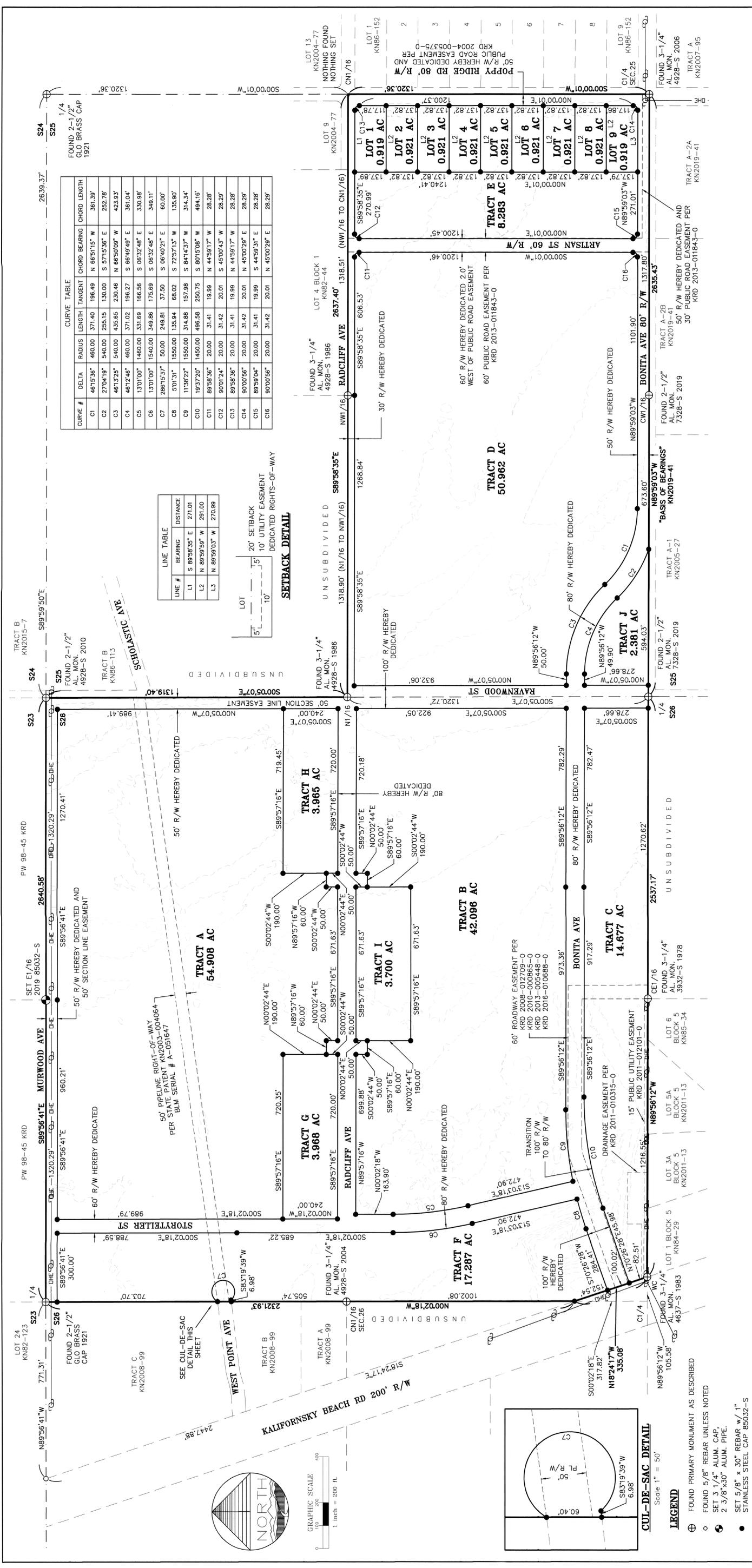
-  Proposed LOZD
-  Parcels

60



Date: 11/8/2019

The information depicted hereon is a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.



CURVE #	DELTA	RADIUS	LENGTH	TANGENT	CHORD BEARING	CHORD LENGTH
C1	48°15'36"	460.00	371.40	196.49	N 85°51'15" W	361.39'
C2	27°04'19"	540.00	255.15	130.00	S 87°15'36" E	252.78'
C3	46°13'25"	540.00	435.65	230.46	N 66°50'09" W	423.93'
C4	46°12'46"	460.00	371.02	196.27	S 85°49'48" E	361.04'
C5	13°01'00"	1460.00	331.69	166.56	S 06°32'48" E	330.98'
C6	13°01'00"	1540.00	349.86	175.69	S 06°32'48" E	349.11'
C7	288°15'37"	50.00	249.81	37.50	S 06°40'21" E	60.00'
C8	5°01'31"	1550.00	135.94	68.02	S 72°57'13" W	135.90'
C9	11°38'22"	1550.00	314.88	157.88	S 84°41'37" W	314.34'
C10	19°37'20"	1450.00	496.58	250.75	S 80°15'08" W	494.16'
C11	89°58'36"	20.00	31.41	19.89	N 44°59'17" W	28.28'
C12	89°58'36"	20.00	31.42	20.01	S 45°00'43" W	28.29'
C13	89°58'36"	20.00	31.41	19.89	N 44°59'17" W	28.28'
C14	89°58'36"	20.00	31.42	20.01	S 45°00'43" E	28.29'
C15	89°58'36"	20.00	31.41	19.89	N 44°59'17" W	28.28'
C16	89°58'36"	20.00	31.42	20.01	S 45°00'43" E	28.29'

LINE #	BEARING	DISTANCE
L1	S 89°58'35" E	271.01
L2	N 89°59'59" W	291.00
L3	N 88°59'03" W	270.89



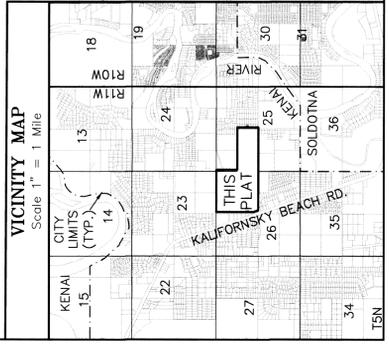
WASTEWATER DISPOSAL
 TRACTS A, B, C, D, E & F ARE AT LEAST 200,000 SQUARE FEET OR NOMINAL 5 ACRES IN SIZE AND CONDITIONS MAY NOT BE TABLE SUITABLE FOR CONVENTIONAL ON-SITE WASTEWATER TREATMENT AND DISPOSAL. ANY TABLE SUITABLE FOR WASTEWATER TREATMENT AND DISPOSAL MUST BE APPROVED BY THE ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION.

WASTEWATER DISPOSAL
 TRACTS G, H, I, J & LOTS 1 - 9 HAVE SOIL CONDITIONS, WATER TABLE LEVELS, AND SOIL SLOPES IN THIS SUBDIVISION THAT HAVE BEEN FOUND SUITABLE FOR CONVENTIONAL ON-SITE WASTEWATER TREATMENT AND DISPOSAL SYSTEMS SERVING SINGLE-FAMILY OR DUPLEX RESIDENCES AND MEETING THE REGULATORY REQUIREMENTS OF THE KENAI PENINSULA BOROUGH. ANY OTHER USE OF ON-SITE WASTEWATER TREATMENT AND DISPOSAL SYSTEMS MUST BE APPROVED BY THE ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION.

- NOTES**
1. WATER SUPPLY AND SEWAGE DISPOSAL SYSTEMS SHALL BE PERMITTED ONLY IN CONFORMANCE WITH APPLICABLE REQUIREMENTS OF 18 AAC 72 AND 18 AAC 80.
 2. BUILDING SETBACK WAS BUILDING SETBACK SET 20 FT. IS REQUIRED FROM ALL ADJACENT LOTS.
 3. THE APPROPRIATE PLANNING COMMISSION HAS REVIEWED AND APPROVED THIS PLAN OF SUBDIVISION AND BY MY FREE CONSENT I ADVERTISE ALL RIGHTS-OF-WAY AND PUBLIC AREAS TO PUBLIC USE AND GRANT ALL EASEMENTS TO THE USE SHOWN.
 4. NO PERMANENT STRUCTURE SHALL BE CONSTRUCTED OR PLACED WITHIN A UTILITY EASEMENT WHICH WOULD INTERFERE WITH THE ABILITY OF A UTILITY TO USE THE EASEMENT.
 5. ROADS MUST MEET THE DESIGN AND CONSTRUCTION STANDARDS ESTABLISHED BY THE ROAD MAINTENANCE PROGRAM.
 6. NO DIRECT ACCESS TO STATE MAINTAINED RIGHTS-OF-WAY PERMITTED UNLESS APPROVED BY STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC SAFETY.
 7. KALIFORNISKY BEACH ROAD EASEMENT RESERVED BY PUBLIC LAND ORDER No. 601 DATED AUGUST 10, 1949 AND AMENDED BY PUBLIC LAND ORDER No. 757 DATED OCTOBER 10, 1959, PUBLIC LAND ORDER No. 1613 DATED APRIL 7, 1958 AND DEPARTMENTAL ORDER No. 2065 DATED FEBRUARY 6, 1951 AMENDMENT No. 2 DATED JULY 17, 1952 AND AMENDMENT No. 2 DATED SEPTEMBER 15, 1956 FILED IN THE FEDERAL REGISTER.

CERTIFICATE OF OWNERSHIP AND DEDICATION
 I, THE UNDERSIGNED, HEREBY CERTIFY THAT THE KENAI PENINSULA BOROUGH IS THE OWNER OF THE REAL PROPERTY SHOWN AND DESCRIBED HEREON AND ON BEHALF OF THE KENAI PENINSULA BOROUGH I HEREBY ADOPT THIS PLAN OF SUBDIVISION AND BY MY FREE CONSENT I ADVERTISE ALL RIGHTS-OF-WAY AND PUBLIC AREAS TO PUBLIC USE AND GRANT ALL EASEMENTS TO THE USE SHOWN.

NOTARY'S ACKNOWLEDGEMENT
 FOR: _____
 ACKNOWLEDGED BEFORE ME THIS _____ DAY OF _____ 2019
 MY COMMISSION EXPIRES _____
 NOTARY PUBLIC FOR THE STATE OF ALASKA



LEGEND

- ⊕ FOUND PRIMARY MONUMENT AS DESCRIBED
- FOUND 5/8" REBAR UNLESS NOTED
- SET 3-1/4" ALUM. CAP.
- SET 3/8" x 30" ALUM. PIPE.
- SET 5/8" x 30" REBAR w/ 1" STAINLESS STEEL CAP 85032-S
- ⊖ POWER POLE
- OVERHEAD ELECTRIC
- CONTOUR INTERVAL = 4'

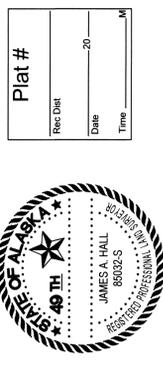
PLAT APPROVAL
 THIS PLAT WAS APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETING OF _____, 2019.
 AUTHORIZED OFFICIAL _____

CODY R. McLANE C.E. 11510 AK
 DATE _____

DATE _____

DATE _____

DATE _____



KALIFORNISKY CENTER SUBDIVISION
 KENAI PENINSULA BOROUGH
 144 N. BINKLEY ST.
 SOLDOTNA, AK 99669
 239.636 AC. M/L SITUATED IN THE NE1/4 OF SECTION 26 AND S1/2 OF NW1/4 OF SECTION 25, T.5N., R.11W., S.M., AK. THE KENAI RECORDING DISTRICT.

ENGINEERING - TESTING
 SURVEYING
 P.O. BOX 448
 SOLDOTNA, AK 99669
 VOICE (907) 283-8218
 WWW.MCLANECS.COM

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Scale 1" = 200'

Introduced by: Mayor
Date: 12/03/19
Hearing: 01/07/20
Action:
Vote:

**KENAI PENINSULA BOROUGH
ORDINANCE 2019-35**

**AN ORDINANCE APPROVING C & H ESTATES SINGLE-FAMILY RESIDENTIAL
R-1 LOCAL OPTION ZONING DISTRICT AND AMENDING KP 21.46.040**

- WHEREAS,** an application was submitted to the Kenai Peninsula Borough Planning Department signed by the record owner of six lots within the proposed local option zoning district (“LOZD”); and
- WHEREAS,** the planning department held a neighborhood meeting at Kachemak Community Center on August 8, 2019, regarding this proposed LOZD as required by KP 21.44.040(C); and
- WHEREAS,** three of the lots within the proposed LOZD are larger than the generally allowed maximum lot size of five acres for R-1 districts that are considered non-conforming lots pursuant to KP 21.44.120; and
- WHEREAS,** pursuant to KP 21.44.040(E) the borough has received written requests from the owners of the three non-conforming lots requesting to be included in the LOZD; and
- WHEREAS,** the borough has received the signatures of 60 percent of the parcel owners within the proposed LOZD indicating that they are in favor of the formation of the LOZD; and
- WHEREAS,** Goal 2, Focus Area: Land Use, Objective A of the Kenai Peninsula Borough's 2019 Comprehensive Plan is to establish policies that better guide land use to minimize land use conflicts, maintain property values, protect natural systems and support individual land use freedoms; and
- WHEREAS,** the Kenai Peninsula Borough Planning Commission reviewed the proposed LOZD at its regularly scheduled meeting of September 23, 2019 and recommended approval;

NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

SECTION 1. That the assembly finds the adoption of the C & H Estates Local Option Zoning District to be consistent with surrounding land uses and the 2019 Kenai Peninsula Borough Comprehensive Plan.

SECTION 2. That KPB 21.46.040 is hereby amended as follows:

21.46.040. Single-Family Residential (R-1) Districts.

A. The following Single-Family Residential (R-1) districts and official maps are hereby adopted:

...

12. C & H Estates is described as follows:

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25, 26, 28, 29, 30, 31, 32, 33, 34, 37, 38, 39, 40, 41, 42, 43, 44, and 45, C & H Estates, according to Plat 80-23; Lot 17C, C & H Estates Bell Addition No. 2, according to Plat 2000-58; and Lots 27A and 35A, C & H Estates Four, according to Plat 2005-86; all within the Homer Recording District.

a. The local option zoning applies to any further replats within the C & H Estates LOZD.

SECTION 4. That C & H Estates LOZD shall be recorded in the proper recording district.

SECTION 5. That this ordinance shall take effect immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS * DAY OF *, 2020.

Kelly Cooper, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

Yes:

No:

Absent:

Kenai Peninsula Borough Planning Department

MEMORANDUM

TO: Kelly Cooper, Assembly President
Members, Kenai Peninsula Borough Assembly

THRU: Charlie Pierce, Mayor CP
Max Best, Planning Director MB

FROM: Bruce Wall, Planner BW

DATE: November 21, 2109

RE: Ordinance 2019-35, Approving C & H Estates Single-Family Residential (R-1) Local Option Zoning District and Amending KPB 21.46.040 (Mayor)

This ordinance would approve the formation of a Single-Family Residential (R-1) Local Option Zoning District (LOZD) and, if approved, amend KPB 21.46.040 to include the C & H Estates LOZD.

An application was submitted to the Kenai Peninsula Borough Planning Department signed by the record owner of six lots within the proposed LOZD. On August 8, 2019, the planning department held a neighborhood meeting at the Kachemak Community Center. The meeting was attended by 25 area residents. The borough has since received the signatures of 60 percent of the parcel owners within the proposed LOZD indicating that they are in favor of the formation of the zoning district.

Three of the lots within the proposed LOZD are larger than the generally allowed maximum lot size of five acres for R-1 districts that are considered non-conforming lots pursuant to KPB 21.44.120. Pursuant to KPB 21.44.040(E) the borough has received written requests from the owners of the three non-conforming lots requesting to be included in the LOZD.

This proposal is consistent with the 2019 Kenai Peninsula Borough Comprehensive Plan which states, "Establish policies that better guide land use to minimize land use conflicts, maintain property values, protect natural systems and support individual land use freedoms".

KPB 21.44.060(A) states, "The assembly shall approve, disapprove, or modify the proposed LOZD. The assembly, in its legislative capacity, may disapprove an LOZD notwithstanding the district's meeting the criteria of this chapter."

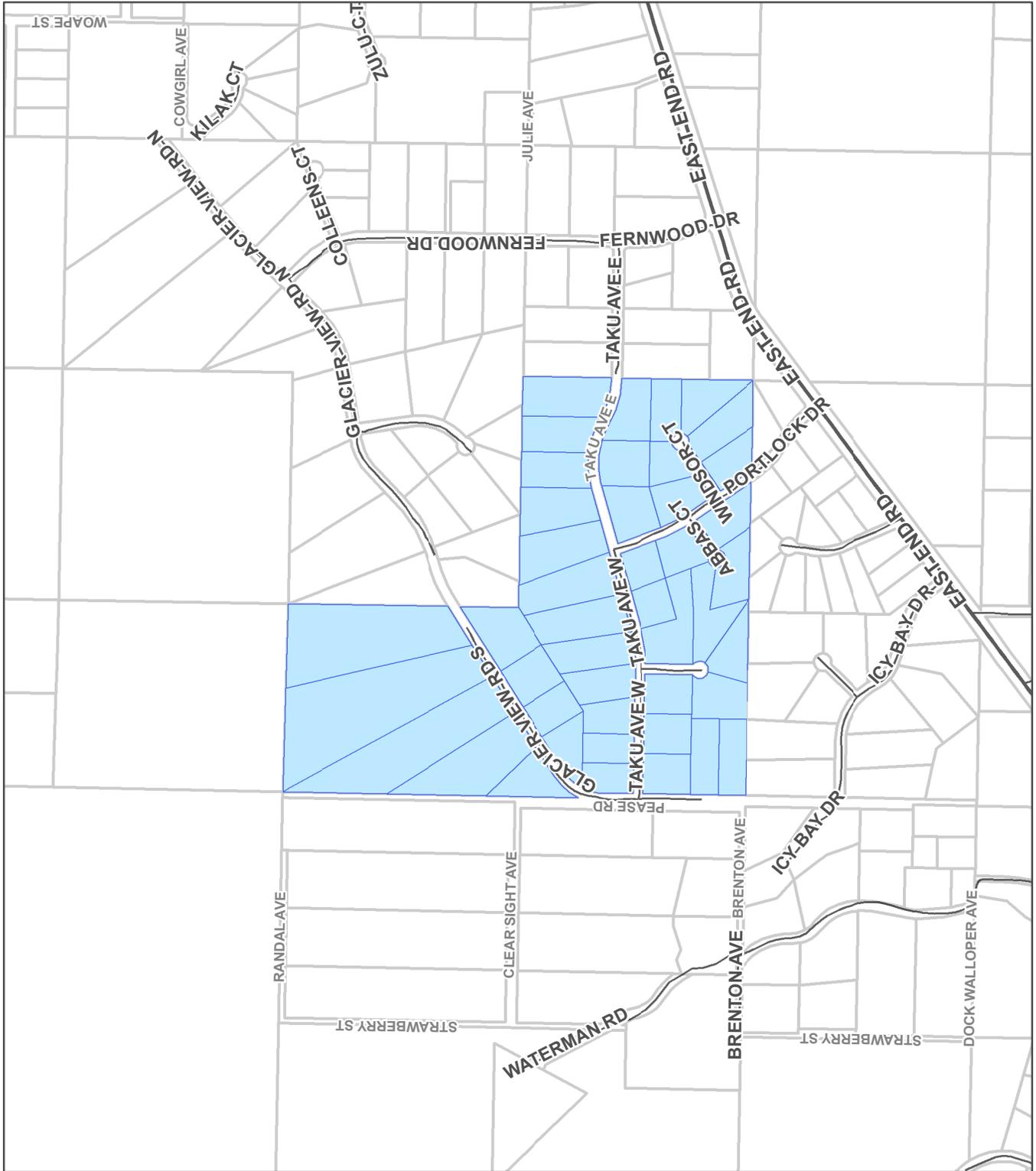
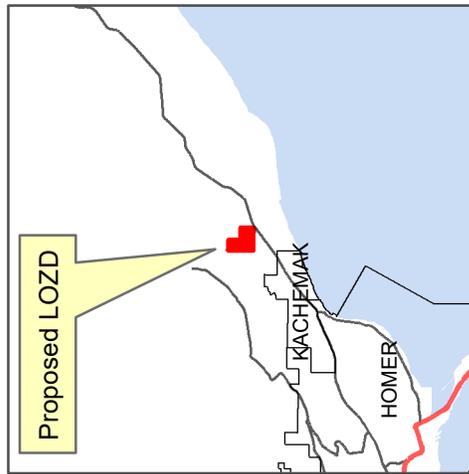
Page -2-
November 21, 2019
RE: Ordinance 2019-35,

The Kenai Peninsula Borough Planning Commission reviewed the proposed LOZD at its regularly scheduled meeting held on September 23, 2019 and recommended approval.

Your consideration of this ordinance is appreciated.

Proposed Local Option Zoning District

C & H Estates LOZD Single-Family Residential (R-1) District



LEGEND

Proposed Local Option
Zoning District



0 500 1,000 Feet

Date: 11/12/2019

The information depicted hereon is a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.

MOTION FOR POSTPONEMENT: Commissioner Ruffner moved, seconded by Commissioner Bentz, to postpone until brought back by staff.

MOTION TO POSTPONE PASSED: Seeing and hearing no objection or discussion, the motion passed by unanimous consent.

PUBLIC HEARINGS

AGENDA ITEM F. PUBLIC HEARING

1. Local Option Zoning District; Fritz Creek Area

Staff Report given by Bruce Wall

PC MEETING: September 23, 2019

Applicant's Contact: Craig Cutler

Legal Description: Those lots within the boundaries of C & H Estates, according to Plat 80-23, Homer Recording District; specifically,

Lots 1 through 16, C & H Estates, according to Plat 80-23;
 Lots 18 through 26, C & H Estates, according to Plat 80-23;
 Lots 28 through 34, C & H Estates, according to Plat 80-23;
 Lots 37 through 45, C & H Estates, according to Plat 80-23;
 Lot 17C, C & H Estates Bell Addition No. 2, according to Plat 2000-58; and
 Lots 27A and 35A, C & H Estates Four, according to Plat 2005-86.

Location: Parcels along Alpenglow Circle, Abbas Court, and Windsor Court; and certain parcels along Glacier View Road S, Taku Avenue W, Taku Avenue E, and Portlock Drive.

BACKGROUND INFORMATION: The applicants have submitted a Local Option Zoning District (LOZD) application signed by the record owners of at least six lots within the proposed LOZD as required by KPB 21.44.040B.

On August 8, 2019, a meeting was held, as required by KPB 21.44.040C, at the Kachemak Community Center. The meeting was attended by 25 individuals that own property within the proposed LOZD or within the 300-foot notification area.

The Planning Department has reviewed the proposed LOZD map submitted by the applicant for the proposed district using the criteria contained in KPB 21.44.040A. Based upon land use, location, access, soils, topography, availability of utilities, encumbrances and permits, staff has determined the boundary of the proposed LOZD is appropriate as requested. Although portions of the parcels on the northwesterly side of Glacier View Road S are significantly steeper than is the rest of the proposed LOZD, there are areas that are less steep adjacent to the road. Three of the parcels on the northwesterly side of Glacier View Road S are larger than the five-acre maximum size lot allowed in the R-1 LOZD; however, KPB 21.44.040(E) allows the owner of parcels larger than the maximum allowed lot size to request to be included within the LOZD. The Planning Department has received a request from each of these three parcels to include their property in the LOZD.

PUBLIC NOTICE: Public notice of the hearing was mailed on September 4, 2019 to the owners of the 44 parcels within the boundaries of the proposed LOZD and the 40 parcels within 300 feet of the proposed LOZD. Public notice of the application was published in the September 12, 2019 & September 19, 2019 issues of the Homer News.

ATTACHMENTS

- Application with Proposed Boundaries

- Request from Property Owners of Larger Lots
- Aerial Map
- Acreage Map
- Land Use Map
- Slope Map
- Soils Map

STAFF RECOMMENDATION

Staff recommends that the planning commission forward this application to the assembly with the recommendation to approve the creation of the Single-Family Residential District as described in the legal description above, contingent upon staff obtaining the signature support of 60% of the parcel owners within the proposed LOZD.

END OF STAFF REPORT

Chairman Martin asked if anyone from the public wished to comment on this item.

1. Aaron Lang, 40208 Alpenglow Cir, Homer

Mr. Lang read the following.

“My name is Aaron Lang. My family of four has lived in the C&H estates since buying our lot there in April 2009. We have owned and operated our business, Wilderness Birding Adventures, from our property since 2013.

We feel strongly that the restrictions set forth in R-1 zoning are an arbitrary and unnecessary layer of bureaucracy that restricts the use of our property and limits economic potential. Contrary to what we've been told by some, I believe this will actually lower property values. Therefore, we are NOT in favor of forming the Local Option Zoning District, R-1, for the C&H estates.

We are not opposed to small businesses operating in the Portlock Drive area. We bought property in what we thought would be a vibrant and diverse neighborhood, not a restrictive retirement community. Our neighborhood is currently home to several small businesses, all of which benefit the families that run them. Most of the current operations of our own small business would comply with what is outlined in R-1 zoning. However, our plans for the occasional commercial use of our guesthouse would be in non-compliance. No doubt there are other properties in the proposed R-1 area that rent out their homes and guesthouses, with no ill effect on the neighborhood. These homes would all be in non-compliance with the zoning restrictions.

Regarding the restrictions to pets, poultry, and other livestock. We have been, are currently, or plan to be in non-compliance with at least three animal-related regulations set out in R-1. The benefits of raising animals for food, economy, and entertainment cannot be overstated. The benefits to children growing up with animals have been widely demonstrated. It is important to us that our kids grow up with these experiences and the learning opportunities raising animals for food, companionship, and commerce provide.

I went to the very informative question and answer meeting hosted by Bruce Wall in Homer earlier this summer. One thing I took away from the meeting was that most of the questions raised by my neighbors were regarding their current property uses that would be in violation of R-1 zoning, uses that would need to be “grandfathered in”. We do understand that there is a mechanism for these to be “grandfathered in” and allowed. However, if a significant portion of residents in the proposed zoning area are currently doing things that would be in violation of R-1 zoning, things that need to be “grandfathered in,” then that should tell us that R-1 zoning is not a good fit for our neighborhood. What about future and as yet unforeseen uses of my property that would be in violation of R-1? Can I predict what opportunities may arise for my family down the road, after the period in which we are allowed to “grandfather in” the uses that nobody finds

offensive to begin with?

The argument has been made by some that R-1 will protect our property values. I disagree. I fail to see how limiting the economic potential of my property will increase its value. How will selling my home, outbuildings, and two acres with a strict set of use limitations increase its appeal to prospective buyers? If C&H estates is the only R-1 zoned area on East End Road, will that really be a selling point?

Our last objection to R-1 zoning concerns fairness. This proposal has been motivated by the potential sale of the "Chocolate Drop" property to Set Free Alaska for use as a drug treatment facility. I was intrigued to learn from Bruce Wall at the last meeting that it is even unclear whether or not R-1 zoning would have restricted this controversial use! The Chocolate Drop property was formerly run as a bed and breakfast. This is a land-use to which we have no objection in our neighborhood. This property was built as, and is clearly best suited for, a bed and breakfast or small lodge and it seems highly unlikely that it could be sold at all if the use of the property were limited in the way that R-1 zoning will dictate. This is not only unfair but unneighborly to the current property owner, who bought the property with the intention of running it as a B&B.

In summary, the application for R-1 status for C&H estates is the efforts of a few very well-intentioned friends and neighbors in reaction to a single proposed controversial land use in our neighborhood. The restrictions that R-1 status would impose go too far and arbitrarily and unnecessarily restrict private property rights and land uses for which there is no community objection. The result would be this: We give up our private property rights, accept mandated lifestyle changes, and reduced economic potential in exchange for an ineffectual defense of a fear of the unknown.

R-1 zoning is inappropriate for our neighborhood and we are strongly opposed to the R-1 zoning option for C&H estates.

Thank you."

2. Scott Meyer, 40210 Alpenglow Cir. Homer

Mr. Meyer and his wife own two lots in the C&H Subdivision. They are in favor of the proposed R-1 local zoning district to protect the residential character of the neighborhood and preserve the values of their properties. The R-1 development standards are not ideal. He thinks some standards are overly restrictive while others are overly generous. The standards can work and be effective in preventing commercial development in the neighborhood, which is a concern. No set of standards will please everyone. The neighborhood has changed substantially since they bought their home 24 years ago. The primary concern is about future commercial development. Several members of the community spent a good portion of the summer trying to prevent the establishment of a commercial drug treatment facility in the neighborhood. In addition, there are properties in the neighborhood that are potentially very attractive to other types of commercial development that could potentially change the characteristics of the neighborhood. They support the proposed zoning and believe the R-1 standards will protect the residential nature of the subdivision.

Commissioner Fikes wanted to know the concerns about commercial development as it pertains to the proposed treatment center. Mr. Meyer said that the treatment center is no longer an issue. The facility is not going in but the issue was with traffic. The single access to the subdivision is from a road off East End Road. Potentially there would have been sixteen residents and their children living at the facility with up to thirteen staff members coming and going each day. It did not seem like an appropriate location. They are in favor of having more drug treatment facilities but in the middle of a residential neighborhood was not a logical location. It would not have been close to emergency services. The administrative headquarters would have been in town. It is no longer an issue. There is a large building that has very little value except as a commercial facility in the neighborhood. The subdivision does have covenants but they are not worded strongly enough to prevent the establishment of a treatment facility. Covenants also require civil action where the

borough will enforce the local option zoning.

3. Craig Cutler, 40130 Portlock Dr., Homer

Mr. Cutler is the applicant for the R-1 zoning option for their subdivision. He and Joanne Cutler were the first lot owners in the subdivision. The covenants were attached to all the deeds in the subdivision. The purchaser of any lots agreed to the covenants. There is no perfect win-win situation. It is a residential area and is not a commercial zone. Some of the covenants are weak. Set Free Alaska is a drug treatment facility and not a rehab. When the director of Set Free Alaska stated his intentions for acquiring the property, Mr. Cutler began investigating the organization. The current owner of the property said that he was not aware that there were covenants. Mr. Cutler let him know at an Opiate Task Force public meeting that the property has covenants. The director would be intentionally violating them. Mr. Cutler had an attorney draft a fax to the director and he withdrew the offer to purchase the property. There was a misunderstanding and he thinks there is a lot of misunderstanding between the residents in the subdivision. Some have been there a long time while others are very new. He has encouraged everyone to study the code and go over any questions or concerns with the planner. He has been president of the homeowners association, which needs to be reorganized. The HOA does not allow businesses as R-1 will. If the R-1 is adopted, they should be brought into harmony with one another. Those that see this as a threat do have the grandfather provision.

Commissioner Ecklund said that an HOA was mentioned and wanted to know if the HOA covers all of the lots that are included in the request. Mr. Cutler said yes. The HOA is a renewable entity. The first run was 25 years and then expired. It renews automatically ever ten years thereafter the covenants do as well. The HOA has not been reformed but there has been a lot of talk about it. The neighborhood is a cooperative neighborhood. Many thought the covenants expired. People have been informed that it not the case and are trying to cooperate. He does not see a better option than having borough protection as another layer. There are three lots in the subdivision that could be used as gravel pits. That would cause a lot of traffic and be an industrial use in their residential neighborhood. Commissioner Ecklund asked him to answer about the HOA. Mr. Cutler said it does not exist right now. Commissioner Ecklund asked what the smallest lot size was within the proposed area. Mr. Cutler thought it was about 1.2 acres. Commissioner Ecklund asked if there were many that size or if most were larger. Mr. Wall noted that page 51 of the packet had the acreage on the lots. Commissioner Ecklund asked if the group had considered a Rural Residential zone instead of an R-1. Mr. Cutler said there had been discussion in the neighborhood and discussions with the planner in regards to the differences and which would fit their situation, environment and lifestyles.

4. Ron Schmidt, Sparks, NV

Mr. Schmidt is the consultant for the property for four years. His clients purchased the property and effective next Tuesday he will be 50% owner and general manager of the property. The property was built in the 1980's and has been ran as a bed and breakfast since that time. The Chocolate Drop on Taku Avenue. The property was built as a bed and breakfast in the 1980's and has been in establishment since that time. He wanted to make sure that it was documented that this piece of property would be a non-conforming property with the proposed zoning. If anything happens that causes the property to be unable to operate for a year the value of the property would substantially fall. In the summer of 2015, his client called and said he wanted to buy some property in the Homer - Soldotna area. The Chocolate Drop Inn is a ten bedroom, nine bath, bed and breakfast. After closing in 2016, they began the process of working with the State Fire Marshall to install a new sprinkler system. After years of discussion, they received the approval from the Fire Marshall to design and install the new sprinkler system. They received the approval from the State Fire Marshall in August 2019 to open as a bed and breakfast. They are now faced with this zoning proposal. His clients have spent over \$300,000 in three and a half years on improvements for this property. This property is why they are here. The neighborhood protested a legitimate organization. Today's fair housing laws would make it hard to saying no to a rehab organization moving in.

Commissioner Ruffner asked if the intention was to use the property as a rehab facility or as a bed

and breakfast. Mr. Schmidt said it was always planned to be a bed and breakfast. His clients were going to open it as a bed and breakfast. Free Alaska made an unsolicited offer. They asked to look at the property and Mr. Schmidt's clients did not know at the time who the organization was or the intentions for the property. They looked it over and made an offer. It would have been a good facility for a rehab center. The money that was coming in for the project for Free Alaska was State of Alaska funds. There was 1.5 million dollars to invest into the purchase of the property and to ready and furnish the facility for clients and staff. The administration offices would not be at that property. The unsolicited offer fell through after the events of the summer from the cooperative neighborhood. One partner does not feel comfortable coming back to Homer, Alaska and being in that neighborhood. Commissioner Ruffner understood the previous offer was off the table but as an owner was it an option for the future. Mr. Schmidt said no, Free Alaska is a non-profit and they have made their choice. The organization had conversations with his clients and they felt that they were treated unfairly by the neighborhood. They were abused and they would not come into the neighborhood.

Commissioner Ruffner noted that if it continues to operate as a bed and breakfast they would fall under the prior existing use provisions. He wanted to confirm the grandfathering of the bed and breakfast could still go in under an R-1. Mr. Schmidt said he has worked 28 years in the government and he knows tiny things can get stuck and make things happen with unintended consequences. His understanding is that the day the Assembly hears this they will have to prove that it is a legitimate operation and that it is a non-conforming use. It will be up to staff to determine if it falls under this or not. If staff says it does fall into a nonconforming use and for any reason there are twelve months that the property does not operate as a bed and breakfast it can lose its status. As an example, there is a fire and it is not operational for a year staff can say that it no longer complies. The building today, if sold as a single-family house would not sell. Three bedrooms face the patio and do not access the house. Five of the units are downstairs and are separated into a two-bedroom apartment and a three-bedroom apartment.

5. Kate Meyer, 40210 Alpenglow, Homer

Ms. Meyer wanted to read a letter presented by Lindsey and Eddie who are her next door neighbors.

"Eddie Vraspir and Lindsay Martin are the joint owners of 40175 Alpenglow Circle. We cannot be at the meeting tonight because Eddie is ill. We are both interested in seeing this zoning approved for our neighborhood. Although no one likes being told what to do, especially in Alaska, we feel the regulations are reasonable and meet the existing uses of the neighborhood. This step is merely a technicality to protect ourselves and our neighbors from unwanted industrial development of a well-established, residential neighborhood. Our household is concerned with development that can impact long-term property values. We are not concerned with home-offices or activities that are currently happening. We would like to see those continue, as we care about our neighbors and their livelihoods.

Please consider us in full support of this measure. To any neighbors who attend the meeting, we thank you for being here in person. Thank you for caring about our little neck of the woods. Even if we have differing opinions, we appreciate living next to you and being a community. We hope to see you walking the loop this fall. All our best, Lindsey and Eddie."

Ms. Meyer wanted to add that the Chocolate Drop is not the primary concern for many of the neighbors. There is another property in the neighborhood that is a very large barn. It was built two years ago and is not well suited for residential development. Many are concerned about an auto repair shop or pot club going into that building which would not be a great neighbor for any of them. After talking with Lindsey and Eddie and other neighbors, it is a concern.

Commissioner Ruffner wanted to know about the large barn and if anyone has talked to the owners. Ms. Meyer said it is someone that does not live in the neighborhood. She has met almost everyone in the neighborhood and is friends with many. She has not met two property owners. The

owner of that building is one of them.

Seeing and hearing no one else wishing to comment, Chairman Martin closed public comment and opened discussion among the Commission.

MOTION: Commissioner Venuti moved, seconded by Commissioner Carluccio, to forward the application to the assembly with the recommendation to approve the creation of the Single-Family Residential District as described in the staff report, contingent upon staff obtaining the signature support of 60% of the parcel owners within the proposed local option zoning district.

Commissioner Venuti wanted to know if the R-1 local option zoning would permit owner occupied businesses. Mr. Wall said there is a provision in the code for home occupations. They do need to meet certain standards. They cannot create too much traffic or do retail sales except for incidental to their business. It is designed for people to be able to work out of their home but using the property for principle commercial use would not be allowed.

Commissioner Carluccio asked if some of the businesses that are not conforming could lose their status if they do not operate for a year. Mr. Wall said that is what the code says. If they cease operations for 365 days, they will lose their status. Commissioner Carluccio asked if there were any provisions mentioned for example in case of a fire and they had to rebuild and it took longer than a year. Mr. Wall asked for a moment to look at the code.

Commissioner Ecklund had a question about losing the nonconforming allowance as well. She wanted to know if the property was sold if the new owner loses the nonconforming allowance. Mr. Wall said the status stays with the property and is not based on ownership.

In response to Commissioner Carluccio, Mr. Wall said he was not able to find any provision in the code that gives any flexibility for the 365 days.

Commissioner Ecklund asked if there were currently any animals in the area that would be prohibited in R-1. Mr. Wall said he was not aware of any. He drove through the neighborhood. He did get an email from someone within the community asking about their chickens. They have more than allowed but they would be grandfathered in. Otherwise, he is not aware of any animal concerns or issues.

Commissioner Ruffner said it was the Planning Commission's job is to review the code and see if the applicant complies with the provisions of the code. Staff is recommending that they comply. Commissioner Ruffner said he is in support of this because it follows the code. He dislikes LOZs when they are used as a sword to stick it to one particular interest. From what he gained from public testimony this may have started out that way but now the drug facility is off the table. There is an unknown with the large building and it is unclear what is happening with it. He will support because it is following the code.

Commissioner Carluccio is dismayed that there is not some provision in the code that gives some flexibility if there is a major disaster. It is not enough to vote no and she would support the motion.

MOTION PASSED: Seeing and hearing no objection or discussion, the motion passed by unanimous consent.

SPECIAL CONSIDERATIONS

AGENDA ITEM I. SPECIAL CONSIDERATIONS

1. Plat Note Restriction Removal
Alder Slopes Subdivision Castle Heights Addition
KPB File 2019-108; KPBPC Resolution 2019-31
Location: On Absher Court, off East End Road, Fritz Creek area

CERTIFICATE OF PUBLICATION AND MAILING

I, Johni Blankenship, Borough Clerk of the Kenai Peninsula Borough, do hereby certify that on the 6th day of December, 2020, I mailed, or caused to be mailed to the property owners of record of all parcels located within the Local Option Zoning District, notice of public hearing on Ordinance 2019-35. A copy of the notice and a list of property owner is attached.

I further certify that a general Notice of Hearing (copy attached) was forwarded to the Homer News for publication on December 26th, 2019 and January 2nd, 2020.

Dated this 6th day of December, 2019.



Johni Blankenship, MMC
Borough Clerk



Office of the Borough Clerk

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

Johni Blankenship, MMC
Borough Clerk

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Kenai Peninsula Borough Assembly will conduct a public hearing on Tuesday, **January 7, 2020 at 6:00 p.m.**, or as soon thereafter as business permits in the Borough Assembly Chambers located at 144 N. Binkley Street, Soldotna, to receive public testimony on **Ordinance 2019-35: An Ordinance Approving C & H Estates Single-Family Residential R-1 Local Option Zoning District and Amending KPB 21.46.040 (Mayor)**. You are receiving this notice as you are a property owner of record in the proposed district.

Legal Description: The property included in the LOZ under consideration is described as follows: Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25, 26, 28, 29, 30, 31, 32, 33, 34, 37, 38, 39, 40, 41, 42, 43, 44, and 45, C & H Estates, according to Plat 80-23; Lot 17C, C & H Estates Bell Addition No. 2, according to Plat 2000-58; and Lots 27A and 35A, C & H Estates Four, according to Plat 2005-86; all within the Homer Recording District.

Location: Parcels along Alpenglow Circle, Abbas Court, and Windsor Court; and certain parcels along Glacier View Road S, Taku Avenue W, Taku Avenue E, and Portlock Drive.

Request: The Borough has received the signature support of 60% of the property owners in response to an application for the parcels listed above to be zoned as Single-Family Residential (R-1), and be subject to the uses and development standards set forth in KPB 21.44.160.

KPB Code: Proposed local option zoning districts are reviewed in accordance with KPB Code 21.44.

Public Meeting Schedule: The public is invited to comment and give testimony at the following meeting.

KPB Assembly Meeting: January 7, 2020, 6:00 p.m., or as soon thereafter as business permits, in the KPB Assembly Chambers, 144 N. Binkley St., Soldotna, Alaska.

Written comments may be sent to: KPB Clerk's Office, 144 N. Binkley, Soldotna, Alaska 99669; emailed to jblankenship@kpb.us, or faxed to (907) 714-2388.

For additional information contact Bruce Wall, Planning Department at (907) 714-2206.

Johni Blankenship, MMC
Borough Clerk

WILLAHAN JOHN J
5803 STERLING WAY
ANCHORAGE, AK 99504

BOYLE LAWRENCE R
3805 RICHARD EVELYN BYRD ST # B
ANCHORAGE, AK 99517

REARDEN SPENCER N
PO BOX 2330
BETHEL, AK 99559

BISHOP SUZANNE M
PO BOX 15237
FRITZ CREEK, AK 99603

NOOMAH WILLIAM & WENDY
PO BOX 15242
FRITZ CREEK, AK 99603

REARDEN MICHAEL B & NITA Y
1284 LAKE SHORE DR
HOMER, AK 99603

SPENCE CHORMAN DALE &
DIANNE
39960 HIGHVIEW CT
HOMER, AK 99603

CUTLER CRAIG LEE & JOANNE L
40130 PORTLOCK DR
HOMER, AK 99603

PITCHER DONALD C & SHEMET
KAREN A
40168 ALPENGLOW CIR
HOMER, AK 99603

VANDERBRINK PAUL D
40180 PORTLOCK DR
HOMER, AK 99603

KLEINE JON G
40205 PORTLOCK DR
HOMER, AK 99603

LANG AARON
40208 ALPENGLOW CIR
HOMER, AK 99603

MEYER SCOTT C
40210 ALPENGLOW CIR
HOMER, AK 99603

HAGGE JAMES M & TARA A
57595 WINDSOR CT
HOMER, AK 99603

SCHROER DAVID K & MARY E
57670 TAKU AVE W
HOMER, AK 99603

GULLICKSON DANIEL W
57925 TAKU AVE W
HOMER, AK 99603

KING JENNIFER ANN
57989 GLACIER VIEW RD S
HOMER, AK 99603

CHASTAIN NANCY M
57991 GLACIER VIEW RD S
HOMER, AK 99603

LAFOND PAUL P REVOCABLE
TRUST #2
871 FORGET ME NOT LN
HOMER, AK 99603

BRUDIE PHILIP L
PO BOX 111
HOMER, AK 99603

JRP INVESTMENT TRUST
PO BOX 1183
HOMER, AK 99603

BATES WEATHERLY PHILLIPS
PO BOX 1401
HOMER, AK 99603

ARNDT RANDOL K & SANDRA E
PO BOX 1477
HOMER, AK 99603

REED LYNDA W
PO BOX 1969
HOMER, AK 99603

GRAUPE CHRISTIAN M
PO BOX 2399
HOMER, AK 99603

FINKENBINDER KARL DAVID
PO BOX 2514
HOMER, AK 99603

ROBINSON LANDER FAMILY TRUST
PO BOX 3216
HOMER, AK 99603

MENKE JOHN B
PO BOX 3268
HOMER, AK 99603

BECHTEL BARBARA & GEORGE Jr
PO BOX 339
HOMER, AK 99603

BARROWCLIFF WAYNE & TONI
PO BOX 3774
HOMER, AK 99603

SANDERS DAVID Jr
PO BOX 838
HOMER, AK 99603

AULT KATHRYN
PO BOX 872
HOMER, AK 99603

VRASPIR EDWIN J
PO BOX 896
HOMER, AK 99603

TLR ADVENTURES LLC
PO BOX 2052
MANKATO, MN 56002

ARSENAULT ALAN G & KIMBER L
PO BOX 1085
PAONIA, CO 81428

HEPPEARD EILEEN A
135 SECOR LN
PELHAM, NY 10803

HAAS GREGORY M
PO BOX 3315
SEWARD, AK 99664

LIGUORI EDWARD B & KATHLEEN L
2957 IRONGATE PL
THOUSAND OAKS, CA 91362

ANDERSON PENELOPE SURRATT
LIVING TRUST
16815 129TH LN SW
VASHON, WA 98070

Broyles, Randi

02019-35

From: Blankenship, Johni
Sent: Monday, December 23, 2019 2:17 PM
To: Broyles, Randi
Cc: Wall, Bruce
Subject: FW: <EXTERNAL-SENDER>C&H Estates

From: Becky Plymire [mailto:rplymire@yahoo.com]
Sent: Monday, December 23, 2019 2:13 PM
To: Blankenship, Johni <JBlankenship@kpb.us>
Subject: <EXTERNAL-SENDER>C&H Estates

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.

Ms. Blankenship and Assembly,
This zoning district has already been voted on and approved. Why are you allowing two squeaky wheels to have a new vote? You have a moral obligation to regard the majority vote. You are NOT Donald Drumph. Please do the right thing, and abide by the law.
Thank you,
JRP, LLC. Property owners

[Sent from Yahoo Mail on Android](#)

Introduced by: Mayor
Date: 12/03/19
Hearing: 01/07/20
Action:
Vote:

**KENAI PENINSULA BOROUGH
ORDINANCE 2019-36**

**AN ORDINANCE AUTHORIZING THE NEGOTIATED LEASE OF GARAGE SPACE
AT THE BEAR CREEK FIRE STATION WITH ALASKA STATE TROOPERS A
DETACHMENT NORTH**

WHEREAS, the Bear Creek Fire Station is operated and budgeted by the Bear Creek Fire Service Area (“BCFSA”) on behalf of the Kenai Peninsula Borough; and

WHEREAS, the building has vacant space suited for use by the Alaska State Troopers (“AST”); and

WHEREAS, BCFSA and AST have identified mutually agreeable terms for entering a rental agreement for garage space; and

WHEREAS, the BCFSA board at its regularly scheduled meeting of November 12, 2019 recommended approval; and

WHEREAS, the Kenai Peninsula Borough Planning Commission at its regularly scheduled meeting of December 16, 2019 recommended _____;

NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

SECTION 1. That the assembly finds that leasing of garage space at the Bear Creek Fire Station to Alaska State Troopers, A Detachment North, pursuant to KPB 17.10.100(I), authorizing the negotiated sales or leases of borough lands, is in the best interest of the borough.

SECTION 2. That the provisions of KPB 17.10.080-090 and KPB 17.10.110-240 governing classification, disposition, and leasing of borough lands and related natural resources shall not apply to this lease of building space.

SECTION 3. Based on the foregoing, the mayor is hereby authorized pursuant to KPB 17.10.100(I) to lease Bear Creek Fire Station Room #126, being 495 sq.ft., with common use of bathrooms and parking to Alaska State Troopers, A Detachment North, for an initial term of 18 months, with five 12-month extensions thereafter, at the monthly rental of \$155.00. The authorization is for lease solely to Alaska

State Troopers, and it may not assign any rights to negotiate or enter an agreement for lease to any other person or entity.

SECTION 4. The mayor is authorized to execute a lease substantially similar to the lease attached to this resolution.

SECTION 5. The Alaska State Troopers shall have 180 days from the date of enactment of this ordinance to execute the lease document.

SECTION 6. That rent revenue from the subject lease shall be submitted to the Borough Finance Department and deposited in Bear Creek Fire Service Area account 207.00000.00000.36315.

SECTION 7. That this ordinance shall take effect immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS * DAY OF *, 2020.

Kelly Cooper, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

Yes:

No:

Absent:

Kenai Peninsula Borough

Planning Department – Land Management Division

MEMORANDUM

TO: Kelly Cooper, Assembly President
Members, Kenai Peninsula Borough Assembly

THRU: Charlie Pierce, Mayor *CP*
Max Best, Planning Director *MB*
Connie Bacon, Chief of Bear Creek Fire Service Area *CB*

FROM: Marcus Mueller, Land Management Officer *mm*

DATE: November 21, 2019

RE: Ordinance 2019-36, Authorizing the Negotiated Lease of Garage Space at the Bear Creek Fire Station with the Alaska State Troopers A Detachment North (Mayor)

The Bear Creek Fire Station is operated and budgeted by the Bear Creek Fire Service Area ("BCFSA") located at 13105 Seward Highway (MP 5.2) on behalf of the Kenai Peninsula Borough.

The original design of the fire station facility was to provide for multiple public safety uses. The building has vacant space suited for use by the Alaska State Troopers ("AST"). Chief Bacon has worked with the Alaska State Troopers Seward Post (A Detachment North) to identify cooperative use of the facility. The BCFSA and the AST have identified mutually agreeable terms for entering a rental agreement for garage space. The proposed lease will provide garage storage space to the AST and offset holding costs for the service area. The lease would provide 495 square feet of garage space for a monthly rental of \$155.00 for an 18-month initial term, with five 12-month renewal options, for a total term of 6.5 years.

The BCFSA board at its regularly scheduled meeting of November 12, 2019 recommended approval.

The planning commission will hold a public hearing on this item at its regularly scheduling meeting on December 16, 2019.

Your consideration of this ordinance is appreciated.

LEASE

This lease agreement (hereinafter the “Lease”), entered by and between the Kenai Peninsula Borough, 144 N Binkley St, Soldotna, AK 99669, hereinafter referred to as “Lessor” and Alaska State Troopers, A Detachment North (“AST”), A Detachment Headquarters, 46333 Kalifornsky Beach Road, Soldotna, Alaska 99669, hereinafter referred to as “Lessee”. The effective date of this Lease is the date of execution of the last party to sign the Lease.

1. **Premises.** Lessor, for and in consideration of the rents, covenants, and conditions hereinafter specified does hereby lease to Lessee the following property hereinafter referred to as “Premises”:

A four hundred and ninety-five (495) square feet garage storage space, more particularly described as Room #126, Bear Creek Fire Station, 13105 Seward Highway, situated on Lot 1A, Bear Creek Fire Station 2013 Replat, Plat No. 2013-5, records of the Seward Recording District, Third Judicial District, State of Alaska.

Lessee shall also have common use of public restrooms and parking spaces.

2. **Rent.** In consideration of the Lease of the Premises by Lessor, Lessee covenants to pay to the Lessor as rent the sum of one-hundred fifty-five dollars (\$155.00) per month. Rent is due and payable in advance, on or before the 1st day of the month. Rent may be adjusted at time of renewal by agreement of the parties in writing.
3. **Term, Renewal Terms.** The Lease term is 18 months commencing on January 1, 2020 and ending on June 30, 2021 and may be renewed for up to five additional 12-month terms. Renewals shall be automatic while the Lease is in good standing. Lessee may cancel the lease with 90-days written notice to Lessor.
4. **Services.**
 - A. **Utilities/Snow Removal.** Heating fuel, electric, water, septic, and refuse shall be provided by Lessor.
 - B. **Grounds Maintenance.** Grounds maintenance, including snow removal, shall be provided by Lessor.
 - C. **Phone/ Network.** Phone and network service, if any, is the responsibility of the Lessee. Phone accounts, network servers, and internet connections shall be established and paid for by Lessee at the option of the Lessee. The Lessee is required to coordinate installation with the Lessor. The Lessor reserves the right to request that the Lessee must properly secure any wireless network provisions.
 - D. **Janitorial Service.** Lessee is responsible for its own janitorial or custodial services.

- E. Security. Lessee will be responsible for securing garage storage space. Lessor retains responsibility for general security over the remainder of the site.
5. **Covenants of Lessee.** Lessee hereby covenants and agrees:
- A. To pay rent: Lessee will pay the rent specified at the times and in the manner set out in Section 2 herein, except only in the case of fire or other casualty as herein provided.
- B. Not to assign. Lessee shall not assign, sublet or part with the possession of all or any part of the leased premises without the prior written consent of the Lessor.
- C. To permit Lessor to enter. Lessor is granted free access to premises at all times for inspection, maintenance, or repair.
- D. To yield up premises. At the expiration or cancellation of this Lease, Lessee will peaceably yield up to Lessor the premises, in good repair in all respects, reasonable wear and tear excepted.
- E. Alterations. Lessee may not alter the premises without first obtaining prior approval of Lessor. Any approved fixtures installed by Lessee shall become property of the Lessor unless otherwise agreed to in advance in writing signed by both parties..
- F. Acceptance of Premises. Lessee has examined and knows the condition of the premises and accepts the same "as is," subject to Lessor's obligations under this lease.
- G. Use of Premises. Lessee hereby covenants that the use of the premises shall be for professional use (office/conference/meetings) only and for no other purpose except by written mutual agreement by Lessor.
6. **Lessor's Warranties.** The Lessor covenants, guarantees and provides the following express warranties:
- A. No existing restrictions interfere with the Lessee's permitted and intended use of the premises;
- B. There is availability of adequate ingress and egress to the premises;
- C. Lessor has sufficient interest in the property to grant Lessee this leasehold;
- D. Lessor shall be responsible for maintaining the premises in good repair.
7. **Default by Either Party.** Should either Lessor or Lessee default in the performance of the obligations of any covenants of this Lease and fail to fully remedy such default within thirty days after written notice by the non-defaulting party, then the Lease may be terminated by

written notice to the defaulting party. Upon termination of this Lease, Lessor shall refund to Lessee any unearned advance rent paid by Lessee less any damages caused by Lessee's occupancy beyond reasonable wear and tear.

8. **Indemnification and Liability Insurance.**

- a. **Indemnification and Hold Harmless.** Lessee shall indemnify, defend, save and hold Lessor, its elected and appointed officers, agents and employees, harmless from any and all claims, demands, suits, or liability of any nature, kind or character including costs, expenses, and attorney fees resulting from Lessee's failure to perform in accord with the terms of this Lease in any way whatsoever. The Lessee shall be responsible under this clause for any and all claims of any character resulting from Lessee or Lessee's officers, agents, employees, attorneys, suppliers, and subcontractor's acts, omissions, or failure to perform under this Lease in any way whatsoever. This defense and indemnification responsibility shall not include claims alleging acts or omissions by Lessor or its agents, which are said to have contributed to the losses, failure, violations, or damage. Lessee shall not be responsible for any damages or claims arising from the negligence or willful misconduct of Lessor, its agents, or employees.
- b. **Liability Insurance.** Lessee shall purchase at its own expense and maintain in force at all times during the term of this Lease Comprehensive General Liability Insurance, which shall include bodily injury, personal injury, and property damage with respect to the property and the activities conducted by the Lessee in which the coverage shall not be less than \$1,000,000 per occurrence. The policy purchased shall name Lessee as the insured and list Lessor as an additional insured, shall be primary and exclusive of any coverage carried by Lessor, and shall also require the insurer to provide Lessor with at least thirty (30) days written notice of any change in coverage. Lessee may submit a letter of self-insurance with proper backing demonstrating coverage that exceeds the above standards.
- c. **Proof of Insurance.** At the time of executing this Lease, and at the time of each renewal of insurance, Lessee shall deliver to the Lessor certificates of insurance or letters of self-insurance meeting the above criteria.

9. **Damage due to Causes beyond Control.** Lessee and Lessor agree that if a cause beyond control prevents occupation of the premises, any rent paid shall be prorated daily for the days Lessee is unable to occupy the premises. If the "cause beyond control" lasts for more than 30 days, Lessee or Lessor shall have the right to terminate this Lease upon 14 days' written notice given in the manner set out in Section 15 of this Lease. The phrase "cause or causes beyond control," as used in this section, means any one or more of the following causes which are not attributable to the fault or negligence of the Lessee or Lessor and which prevent performance of this Lease: fire, explosions, floods, earthquakes, other acts of God, war, orders or law of duly constituted public authorities, and other major uncontrollable and unavoidable events, all of the foregoing which must actually prevent Lessee or Lessor from performing the terms of this Lease. Events which are particular to either party, including

but not limited to financial difficulties, are not causes beyond the control of either the Lessee or Lessor.

10. **Compliance with Laws.** Lessee agrees to comply with all applicable federal, state, borough and local laws and regulations.
11. **No Waiver.** No assent, expressed or implied, by either party to any breach of either party's covenants shall be deemed to be a waiver of any succeeding breach of the same covenants, nor shall any forbearance by a party to seek a remedy for any breach be deemed a waiver by that party of its rights or remedies with respect to such breach.
12. **Integration.** This document contains the entire lease agreement of the parties hereto. All negotiations, statements, representations, guarantees, warranties, and assurances, whether oral or written, which are in any way related to the subject matter of this Lease and the performance of either party hereto, are merged and integrated into the terms of this document.
13. **Interpretation and Enforcement.** This Lease has been drafted following negotiations between the parties. It shall be construed according to the fair intent of the language as a whole, not for or against any party. The interpretation and enforcement of this Lease shall be governed by the laws of the State of Alaska. The titles of sections in this agreement are not to be construed as limitations or definitions but are for identification purposes only.
14. **Counterparts; Electronic Signature.** This Lease may be executed in counterpart and may be executed by way of facsimile or electronic signature in compliance with AS 09.80, each of which when executed shall be considered an original and all of which together shall constitute one agreement.
15. **Severability.** If any section or clause of this Lease is held invalid by a court of competent jurisdiction, or is otherwise invalid under the law, the remainder of this Lease shall remain in full force and effect.
16. **Notice.** Whenever notice is required hereunder, it shall be addressed as follows until written notice of change of address is given to the other party:

LESSOR:

Kenai Peninsula Borough
Land Management Division
144 N. Binkley Street
Soldotna, Alaska 99669

LESSEE:

Alaska State Troopers
A Detachment North
46333 Kalifornsky Beach Road
Soldotna, Alaska 99669

KENAI PENINSULA BOROUGH

ALASKA STATE TROOPERS
A DETACHMENT NORTH

By: Charlie Pierce
Its: Mayor
Date: _____

By: Capt. Maurice Hughes
Its: Detachment Commander
Date: _____

ATTEST:

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

Johni Blankenship, Borough Clerk

Sean Kelley, Deputy Borough Attorney

NOTARY ACKNOWLEDGMENT

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this ___ day of _____ 2019 by Charlie Pierce, Mayor of the Kenai Peninsula Borough, an Alaska Municipal Corporation, for and on behalf of the Corporation.

Notary Public in and for Alaska
My commission expires: _____

NOTARY ACKNOWLEDGMENT

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this ____ day of _____ 2019 by _____, Capt. Maurice Hughes, A Detachment North Commander of Alaska State Troopers, a Division of the Department of Public Safety, State of Alaska, for and on behalf of the Detachment.

Notary Public in and for Alaska
My commission expires:_____

MEMORANDUM

TO: Kelly Cooper, Assembly President
Kenai Peninsula Borough Assembly Members

THRU: Charlie Pierce, Borough Mayor 

FROM: Max J. Best, Planning Director 

DATE: December 18, 2019

RE: Ordinance 2019-36; An Ordinance Authorizing the Negotiated Lease of Garage Space at the Bear Creek Fire Station with Alaska State Troopers A Detachment North

The Kenai Peninsula Borough Planning Commission reviewed the subject Ordinance during their regularly scheduled December 16, 2019 meeting.

A motion passed by unanimous consent to recommend approval of Ordinance 2019-36.

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

WHEREAS, the Kenai Peninsula Borough Planning Commission at its regularly scheduled meeting of December 16, 2019 recommended approval by unanimous consent.

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

AGENDA ITEM F. PUBLIC HEARING

1. Ordinance 2019-36, Authorizing the Negotiated Lease of Garage Space at the Bear Creek Fire Station with the Alaska State Troopers A Detachment North.

Staff Report given by Marcus Mueller

PC MEETING: December 16, 2019

The Bear Creek Fire Service Area operates the Bear Creek Fire Station. The building that they are in was built a few years ago. It was designed as a multi-use facility for emergency responders. There is space in there that has been vacant since it was constructed. They have been trying to encourage the Alaska State Troopers to come into the building. This lease would bring the Troopers into some garage space for storage. The lease is for 495 sq. ft., at \$155.00 per month, for a total term of six and a half years. The Bear Creek Fire Service Area recommended this at their November 12, 2019 meeting.

END OF STAFF REPORT

Chairman Martin asked if anyone from the public wished to comment on this item. Seeing and hearing no one wishing to comment, Chairman Martin closed public comment and opened discussion among the Commission.

MOTION: Commissioner Ecklund moved, seconded by Commissioner Morgan, to forward to the Assembly a recommendation to approve Ordinance 2019-36, authorizing the negotiated lease of garage space at the Bear Creek Fire Station with the Alaska State Troopers A Detachment North.

MOTION PASSED: Seeing and hearing no discussion or objection, the motion passed by unanimous consent.

Introduced by: Mayor
Date: 12/03/19
Hearing: 01/07/20
Action:
Vote:

**KENAI PENINSULA BOROUGH
ORDINANCE 2019-37**

**AN ORDINANCE AMENDING KPB 17.10.120, TERMS OF A LAND SALE, TO
ADDRESS KENAI PENINSULA BOROUGH EMPLOYEE AND CONTRACTOR
PARTICIPATION IN CERTAIN LAND DISPOSAL METHODS**

WHEREAS, KPB 17.10 authorizes the sale of borough land through several methods of disposition; and

WHEREAS, KPB 17.10.010 directs the borough to ensure that the disposition of borough land is carried out in a manner which is fair to all; and

WHEREAS, the borough wishes to adopt certain qualifications to ensure a fair process is in place for borough employees or contractors to participate in land sales; and

WHEREAS, Kenai Peninsula Borough Comprehensive Plan Goal 2, Focus Area: Land Use and Changing Environment, Objective A, establishes policies that better guide land use to minimize land use conflicts, maintain property values, protect natural systems and support individual land use freedoms; and

WHEREAS, ensuring fair land disposal procedures furthers the Kenai Peninsula Borough Comprehensive Plan Goal 2, Focus Area: Land Use and Changing Environment, Objectives A; and

WHEREAS, the Kenai Peninsula Borough Planning Commission at its meeting held on December 16, 2019, recommended _____;

NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

SECTION 1. That KPB 17.10.120, Terms of a Land Sale, is amended as follows:

17.10.120. – Terms of a Land Sale.

- A. The assembly shall by ordinance fix the terms of all sales of borough lands. The ordinance shall contain the date of sale, the method or methods of sale, the manner in which payment is to be made, the interest to be conveyed, the

instrument of conveyance to be used, and any other terms the assembly deems appropriate.

- B. Land disposal actions will be in conformance with the land classification system.
- C. The assembly may authorize payment to be made over time only if:
 - 1. The down payment is at least 10% of the sale price;
 - 2. The rate of interest is the prime rate on the authorized date of sale plus two percent (2%);
 - 3. The period for total payment does not exceed ten years;
 - 4. The period for total payment does not exceed twenty years if the land is sold for agricultural use;
 - 5. A late fee of ten percent of the monthly payment shall be charged whenever a payment is received ten or more calendar days past the due date.
 - 6. Any unpaid balance due the borough must be paid in full if the purchaser sells the property unless the assembly has provided otherwise.
- D. The assembly may authorize the sale of land for an amount other than fair market value only if the ordinance authorizing the sale contains:
 - 1. A finding that sale for an amount other than fair market value is in the best public interest;
 - 2. A statement of the facts on which the finding is based; and
 - 3. The period of time during which the offer may be accepted.
- E. If the assembly requires a prospective buyer to pay to the borough a down payment, bond or other deposit, and if the prospective buyer breaches a term of the sale, then the borough shall retain as liquidated damages the prospective buyer's down payment, bond or other deposit.
- F. [THE MAYOR SHALL NOT SELL, LEASE OR AUTHORIZE ANY OTHER USE OR DISPOSITION OF BOROUGH LAND TO A PERSON WHO IS DELINQUENT IN THE PAYMENT OF ANY TAX, DEBT OR OBLIGATION OWED TO THE BOROUGH.] Restrictions:

1. A person who is delinquent in the payment of any tax, debt or obligation owed to the borough may not buy, lease, or be authorized for any other use or disposition of borough land.
2. An employee of the Kenai Peninsula Borough is not eligible to acquire land by negotiated sale or negotiated lease.
3. An employee or contractor of the Kenai Peninsula Borough that was in a position to obtain information not available to the general public about the disposal process may not submit an application for a sealed bid sale held under 17.10.100(F) within the final 15 days of the offering period.

...

SECTION 2. That this ordinance takes effect immediately upon its enactment.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS *
DAY OF *, 2020.**

Kelly Cooper, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

Yes:

No:

Absent:

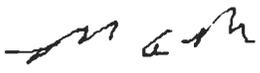
Kenai Peninsula Borough

Planning Department – Land Management Division

MEMORANDUM

TO: Kelly Cooper, Assembly President
Kenai Peninsula Borough Assembly Members

THRU: Charlie Pierce, Mayor *CP*
Max Best, Planning Director *MB*

FROM: Marcus Mueller, Land Management Officer 

DATE: November 21, 2019

RE: Ordinance 2019- 31, Amending KPB 17.10.120, Terms of a Land Sale, to Address Kenai Peninsula Borough Employee and Contractor Participation in Land Disposal Methods (Mayor)

Policies regarding borough management of lands and resources are outlined within KPB 17.10.010. Paragraph 17.10.010(A)(6) provides for "the orderly disposal of lands and resources in a manner which is fair to all".

The Land Management Division recommends that amendments to KPB 17.10.120, Terms of a Land Sale, be adopted to maintain a high standard of fairness with regard to management of borough lands. Other agencies, including the Alaska Department of Natural Resources and the Trust Land Office of the Alaska Mental Health Trust Authority, have policies similar to those recommended here to ensure fair processes for land disposal. The recommended amendments would support the borough's policy to maintain a fair process by removing areas with potential for conflicts of interest or advantage, or the public perception thereof, for borough employees and borough contractors.

This ordinance includes additional restrictions regarding those qualified to participate in land disposals offered by the borough. The proposed code changes will lessen or remove the possibility of conflicts of interest regarding the participation of borough employees and borough contractors in borough land sales. The purpose of this ordinance is to ensure a fair process is in place for employees and contractors who would like to participate in borough land sales.

Your consideration of this ordinance is appreciated.

MEMORANDUM

TO: Kelly Cooper, Assembly President
Kenai Peninsula Borough Assembly Members

THRU: Charlie Pierce, Borough Mayor 

FROM: Max J. Best, Planning Director 

DATE: December 18, 2019

RE: Ordinance 2019-37; An Ordinance Authorizing Amending KPB 17.10.120, Terms of a Land Sale, to Address Kenai Peninsula Borough Employee and Contractor Participation in Certain Land Disposal Methods

The Kenai Peninsula Borough Planning Commission reviewed the subject Ordinance during their regularly scheduled December 16, 2019 meeting.

A motion passed by unanimous consent to recommend approval of Ordinance 2019-37.

The Planning Commission made an amendment motion to include the next of kin, direct kin, or some language to that effect to address people within the household of borough employees or contractors. The amendment motion passed by unanimous consent.

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

WHEREAS, the Kenai Peninsula Borough Planning Commission at its meeting held on December 16, 2019, recommended approval by unanimous consent.

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

AGENDA ITEM F. PUBLIC HEARING

2. Ordinance 2019-37, Amending KPB 17.10.120, Terms of a Land Sale, to Address Kenai Peninsula Borough Employee and Contractor Participation in Land Disposal Methods.

Staff Report given by Marcus Mueller

PC MEETING: December 16, 2019

This is policy regarding participation in borough land sales. It will add a provision that an employee of the Kenai Peninsula Borough is not eligible to acquire land by negotiated sale or lease. An employee or contractor of the Kenai Peninsula Borough that is in a position to obtain information not available to the public under the disposal process may not submit an application for sealed bid sale under borough code within the final 15 days of the offering period. This language models language that is used by the State of Alaska Department of Natural Resources and Mental Health Trust. It provides clarity that borough employees can participate in land sales and provides restrictions so there are no advantage to employees.

END OF STAFF REPORT

Chairman Martin asked if anyone from the public wished to comment on this item. Seeing and hearing no one wishing to comment, Chairman Martin closed public comment and opened discussion among the Commission.

MOTION: Commissioner Foster moved, seconded by Commissioner Carluccio, to forward to the Assembly a recommendation to approve Ordinance 2019-37, amending KPB 17.10.120, terms of a land sale, to address Kenai Peninsula Borough employee and contractor participation in land disposal methods.

Mr. Mueller added that the Cooper Landing Advisory Planning Commission did review and recommended approval. The Anchor Point Advisory Planning Commission also heard this item. A copy of their minutes were in the desk packet. They recommended that partners and spouses of borough employees must follow the same requirements as an employee.

Commissioner Venuti wanted to know the existing standard. Mr. Mueller said that this is not replacing anything but putting something into place that the code did not address.

Commissioner Ruffner asked if there had been an issue or if staff was being proactive. Mr. Mueller said that fortunately the borough is between land sales at this time. There is not an issue and staff is taking advantage of the timing. A new staff member, Bryan Taylor, has experience working with the state and he brought this forward as a good practice to follow.

Commissioner Ruffner felt that the Advisory Planning Commission came up with a good idea to apply to first of kin. He wanted to know if the Planning Commission should address it or if staff would be presenting it to the Assembly. Mr. Mueller felt that having the Planning Commission reinforce that recommendation would be best and would allow the Legal Department to prepare wording to present to the Assembly.

AMENDMENT MOTION: Commissioner Ruffner moved, seconded by Commissioner Morgan, to include the next of kin, direct kin, or some language to that effect to address the people within the household of the borough employees or contractors.

MOTION PASSED: Seeing and hearing no discussion or objection, the motion passed by unanimous consent.

Introduced by: Mayor
Date: 12/03/19
Hearing: 01/07/20
Action:
Vote:

**KENAI PENINSULA BOROUGH
ORDINANCE 2019-39**

**AN ORDINANCE REPEALING KPB 12.06 AND ENACTING 12.08 JUNK AND
ABANDONED VEHICLES**

WHEREAS, current borough code regarding the abatement of junk or abandoned vehicles is a mixture of code and state statutory process; and

WHEREAS, state law provides that a municipality may adopt by ordinance established procedures for the abatement and removal of junk or abandoned vehicles so long as the requirements AS 28.11.100 are met; and

WHEREAS, vehicles abandoned on public roadways or public property are public nuisances that create health and safety hazards; and

WHEREAS, it is in the best interests of the borough to have a clearly established procedure for the abatement, removal, and disposal of vehicles abandoned on public property; and

WHEREAS, the public is served by the establishment of code-driven procedures that meet the requirements of state law; and

WHEREAS, the public is further served by having procedures to follow when junk or abandoned vehicles are left on private property without the owner's consent; and

WHEREAS, due to significant changes to borough code as enacted by this ordinance KPB 12.06 is repealed in its entirety and replaced by a new chapter KPB 12.08; and

WHEREAS, at its regularly scheduled meeting held on October 29, 2019, the Kenai Peninsula Borough Road Service Area board recommended approval of this ordinance by unanimous consent;

NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

SECTION 1. KPB 12.06. ABANDONED VEHICLE ABATEMENT PROCEDURE is hereby repealed.

SECTION 2. KPB 12.08. JUNK AND ABANDONED VEHICLES is hereby enacted as follows:

CHAPTER 12.08. JUNK AND ABANDONED VEHICLES

12.08.010. Purpose--Authority—Administration.

The assembly declares that abandoned and junk vehicles are a public nuisance and must be properly disposed of as solid waste in accordance with this chapter and current rules and regulations regarding solid waste disposal, including use fees. The borough may cause to be removed from public property and borough roads abandoned, junk, wrecked or inoperative vehicles following the procedures set forth in this chapter. The Road Service Area Director (“roads director”) shall administer this chapter in coordination with the solid waste director.

12.08.020. Abandoned Vehicles Prohibited.

- A. It is unlawful for a person to abandon a vehicle on a road, vehicular way, or area that is publicly dedicated to or maintained by the borough.
- B. It is unlawful for a person to abandon a vehicle on public property of the borough not set aside by ordinance as a refuse disposal open for the disposal of vehicles.
- C. It is unlawful for a person, without consent of the property owner or person in possession or control of the property, to abandon a vehicle on private property unless such property is licensed as a junkyard, is open for disposal, all necessary fees for removal and storage have been paid, and all other requirements of disposal have been met.
- D. The owner of the vehicle, as shown by the records of the State of Alaska, Department of Administration, Department of Motor Vehicles (DMV) is considered responsible for the abandonment of the vehicle and is liable for the cost of its removal and disposition unless:
 - 1. The vehicle was abandoned by a person without the permission of the owner; and
 - 2. The identity of the person abandoning the vehicle is established and the abandonment as well as the lack of consent of the owner.

State Law Reference - Similar provisions in AS 28.11.010

12.08.030. Presumption of Abandonment.

A vehicle is presumed abandoned if:

- A. The vehicle is registered or titled as required under AS 28.10 and reasonably appears to have been left unattended, standing, or parked upon or within ten (10) feet of the traveled portion of a road or vehicular way or area in excess of 48 hours; or
- B. The vehicle is registered or titled as required under AS 28.10 and reasonably appears to have been left standing or parked upon public property owned or managed by the borough for more than thirty (30) calendar days; or
- C. The vehicle is a wrecked or junk vehicle that reasonably appears to have been left unattended, standing, or parked upon or within ten (10) feet of the traveled portion of a road or vehicular way or area in excess of 48 hours; or
- D. It is a wrecked or junk vehicle that reasonably appears to have been left standing or parked on public property owned or managed by the borough, in excess of two (2) days and without the consent of the owner or the borough.
- E. Private Property.
 - 1. A vehicle that is registered or titled as required under AS 28.10 and reasonably appears to have been left unattended, standing, or parked upon private property in excess of 24 hours may be removed by the borough at the request of the private property owner. The borough shall not be responsible for the costs of removal and will assess such costs to the private property owner.
 - 2. A vehicle that is a wrecked or junk vehicle that reasonably appears to have been left standing or parked on private property in excess of 48 hours and without the consent of the owner or the property owner may be removed by the borough at the request of the private property owner. The borough shall not be responsible for the costs of removal and will assess such costs to the private property owner.

State Law Reference – AS 28.11.020

12.08.040. Junk Vehicles Prohibited.

- A. It is unlawful for the registered owner, tenant or other person with legal right to possession of or control over a junk vehicle to place or allow such vehicle to remain, for two (2) or more calendar days, in public view on any road, vehicular way or area that is publicly dedicated to or maintained by the borough.

- B. Upon observation of what appears to be a junk vehicle, the roads director, or their designee, shall give written notice as outlined in section 12.08.060 of this chapter.
- C. Notwithstanding the provisions of subsection A of this section, if the director has reasonable grounds to believe that repairs can be made to render a junk vehicle operable, that the registered owner or other person entitled to possession of the vehicle is willing to undertake or have performed such repairs, that the vehicle does not pose any health or safety hazard, and that there is no reasonable means for removing the vehicle from public view while repairs are being performed, the director may authorize a period of no more than thirty (30) calendar days for the performance of such repairs. In no case, however, may this section be construed as authorizing the operation of a junkyard or other salvage or repair business where other requirements of law, including ordinances, have not been met.

12.08.050. Abandoned and Junk Vehicles.

If a vehicle is both junk and abandoned, the borough may pursue its abatement under either the junk or abandoned vehicle provisions of this chapter or parts of both.

12.08.060. Removal of Abandoned - Junk Vehicles.

- A. A vehicle that is presumed abandoned or junked may be impounded and disposed of by the director or their designee in accordance with this chapter. Notwithstanding, the borough shall not be responsible for removal or disposal of junk or abandoned vehicles on private property. Removal and disposition of abandoned or junked vehicles on private property is the responsibility of the owner of the property.
- B. Notice to remove abandoned or junked vehicles shall be given at least 48 hours prior to removal unless the vehicle constitutes an immediate hazard to the public by reason of its condition or location, or if it impedes the regular flow of traffic or the ordinary use of the public property on which it is located. Notice shall be given by posting a copy of the notice on the vehicle stating:
1. A description of the vehicle;
 2. The grounds for removal of the vehicle;
 3. The proposed action to be taken;
 4. Contact information for the director; and

5. That the vehicle will be towed and impounded, and may be disposed of in accordance with this chapter if unclaimed.

C. A written report of removal shall be made by an employee causing a vehicle to be removed under this chapter, and the report shall be sent to the person or entity storing the removed vehicle and to the director. The written report shall contain the description of the vehicle, the date, time, grounds, and place of removal, and the place where the vehicle is impounded.

12.08.070. Waiver of Claim for Damages.

A. An owner of an abandoned or junk vehicle waives any claims they may have for damage to or loss of their vehicle which may result from actions taken pursuant to this chapter. Such damage or loss includes, but is not limited to, accidental damage or destruction occasioned by removal, transport and storage, and acts of third parties.

B. Should a vehicle purchased at auction pursuant to KP.B 12.08.090 be damaged or destroyed prior to release, the purchaser's remedy is limited to a return of the purchase price.

12.08.080. Notice to Owners and Lienholders.

A. As soon as practicable, but not later than ten (10) calendar days after removal, the director, or their designee, shall issue notice of the impoundment by either certified mail, return receipt requested, or personal service to:

1. The registered owner of record and to lienholders of record, if any;
2. Persons known to be lawfully entitled to the possession of the abandoned/junk vehicle; and
3. The Department of Motor Vehicles ("DMV").

B. The giving of notice by mail is considered complete upon the return of the receipt or upon return of the notice as undeliverable, refused or unclaimed. If the vehicle is not registered in the State of Alaska or the name and address of the registered or legal owner or lienholder cannot be ascertained, notice shall be by publication at least once in a newspaper of general circulation for the borough at least twenty (20) calendar days before any final action, such as a sale is undertaken. The director, or their designee, shall use reasonable efforts to ascertain ownership, including but not limited to contacting the DMV.

- C. Notice under this section shall contain:
1. The description of the vehicle; and
 2. The date, time, grounds and place of removal; and
 3. The place where the vehicle is impounded; and
 4. An itemized statement of amounts due the borough for towing and storage (impoundment), administrative fees (DMV search, certified mail, advertising), vehicle prep fees, and stating that such fees must be paid prior to redemption of the vehicle; and
 5. A statement that unless the right to possession is established to the satisfaction of the director and the vehicle reclaimed, or unless arrangements are made for the storage of the vehicle within that time, the vehicle and its contents may be sold at public auction or, in the director's discretion, if the vehicle is determined by the director to be inoperable or worth less than One Thousand Five Hundred (\$1,500.00) Dollars, disposed of by crushing or other means of destruction; and
 6. A statement that the owner of the vehicle may, at any time within ten (10) calendar days, provide a written request for a hearing before the Road Service Area (RSA) Board, pursuant to section 12.08.130, concerning whether the vehicle was abandoned or is a junk vehicle in violation of this chapter and subject to disposal.

12.08.090. Disposition – Sale.

- A. Upon expiration of the time period to request a hearing, the director may sell abandoned or junk vehicles impounded in accordance with this chapter at a public auction.
- B. The public auction shall be preceded by at least twenty (20) calendar days' notice of public auction posted within the borough. The auction may be conducted online.
- C. The notice of public auction shall state the description of the vehicle, date, time and place of auction, the name of the owner, if known, and a statement that, subject to the provisions of subsection (E) of this section, the vehicle shall be sold to the highest bidder.

D. A certificate of sale shall be issued for all vehicles sold at the auction. The certificate shall stipulate that the vehicle must be registered and titled with the DMV within thirty (30) calendar days and that the vehicle will not be released to the buyer until proof of same has been received by the borough. If no such showing has been made within the thirty (30) day period, one-half (1/2) of the purchase price will be forfeited and the vehicle will be returned to auction status to be disposed of pursuant to this section.

E. The owner of the vehicle may redeem an abandoned or junk vehicle at any time prior to actual sale upon presenting satisfactory proof of ownership and upon payment of all fees and costs incurred and/or imposed by the borough.

12.08.100. Disposition – Destruction.

A. If the director determines that an abandoned or junk vehicle impounded pursuant to this chapter has been scrapped, dismantled or destroyed beyond repair, or that because of the age and condition of the vehicle it is no longer of significant value, the director may authorize disposal by crushing, recycling, or other means of destruction upon the expiration of the fifteen (15) calendar day period required by KPB 12.08.080(c)(6).

B. The borough may also dispose of abandoned or junk vehicles at the written request of the registered owner of the vehicle or person in lawful possession or control of the vehicle. This written request shall be on a form prescribed by the borough. Disposal by written request of the owner shall not relieve the owner of removal and disposition costs. After receipt of a written request for disposal from the owner, the director may determine, after receipt of removal and disposition costs from the owner, that it is in the best interests of the borough to waive all or part of the fine.

12.08.110. - Recovery of costs.

The costs of impounding, towing, storing, selling and/or destroying abandoned or junk vehicles may be charged or assessed by the borough against the registered owner of the vehicle, any person who has acquired legal title to the vehicle from or through the registered owner, any person who has violated sections 12.08.020 or 12.08.040, and/or any proceeds received from the sale of the vehicle pursuant to this chapter.

12.08.120. - Liability for abandoned or junk vehicles.

The registered owner of an abandoned or junk vehicle, and any other person responsible for the vehicle, shall be jointly and severally liable for the costs of towing, storing and selling or otherwise disposing of the vehicle, as well as the costs of abating any safety or pollutant hazard that is caused by the vehicle.

12.08.130. Hearing.

- A. A person claiming an interest in a vehicle that is the subject of a notice under this chapter may obtain a hearing on whether the vehicle is subject to disposal by filing a written appeal to the Road Service Area (RSA) Board within ten (10) calendar days after the date of the notice.
- B. All appeals shall be in writing, signed by the person filing the appeal, and submitted to the Road Service Area Director by delivery to the borough clerk. All notices of appeal shall also contain the following information:
1. Name, address and telephone number of the person filing the appeal;
 2. A specific and detailed statement of the basis for the appeal, with reference to the specific sections of this Title which are claimed to have been violated.
 3. A statement of the relief sought.
- C. Failure to file an appeal within the time and manner provided shall be deemed a waiver of the right to any appellate review.
- D. A request for an appeal is filed on the date it is personally delivered or, if delivered to the borough by United States mail, the date of the United States Postal Service postmark stamped on the properly addressed cover in which the request is mailed.
- E. A current mailing address must be provided to the borough with the request for appeal and any change in mailing address after the request for appeal is filed must be reported in writing to the borough clerk's office.
- F. Within five (5) business days of receiving the notice of appeal, the borough clerk will give notice of the date and time for the appeal hearing. The hearing will be scheduled a minimum of 15 (fifteen) days after the date of the request for appeal has been received. The notice of the hearing will advise the parties of all deadlines for the exchange of discovery.
- G. At least seven (7) days before the hearing, the parties will provide the following to the borough clerk:
1. The names, mailing address and telephone number for all witnesses intended to be called at the hearing.

2. The name, mailing address and telephone number of the person who will speak on behalf of each party at the hearing.

Copies of all documents or exhibits intended to be used as evidence during the hearing.

Copies of all documents filed by the parties shall be served upon the remaining parties by the borough clerk, either by mail, email or personal service, within three (3) business days of the filing deadline.

12.08.135. - Appeal Hearing.

- A. A matter shall proceed to hearing only on those allegations and claimed in the notice issued pursuant to Section 12.08.080. If no allegations or claims in the notice are contested, the matter shall proceed to a decision by the RSA Board without the taking of evidence or argument.
- B. The RSA Board Chair shall set the agenda for the hearing. The hearing shall be open to the public. The RSA Board may permit telephonic participation in the hearing by a party or a witness. The RSA Board may continue the hearing if necessary to obtain additional evidence.
- C. The hearing shall be conducted in an informal manner and shall not be subject to the technical rules of evidence. Any person claiming an interest in the vehicle may appear, present evidence, and cross-examine witnesses.
- D. Formality in pleadings, motions, and the introduction of evidence is not required. A writing filed as a complaint, answer or application shall be legible and brief.
- E. At the hearing, the parties may appear in person or through counsel. The parties may present evidence and testimony on their own behalf, call witnesses, and cross examine other parties' witnesses to the extent the RSA Board determines reasonably necessary to explore any matters which tend to contradict, modify, or explain testimony given on direct. The RSA Board may call witnesses, may ask questions of the witnesses and may request additional evidence.
- F. Each party shall have a maximum of thirty (30) minutes to present their case, including any opening and/or closing statements.
- G. Evidence.
 1. All testimony shall be given under oath or affirmation.

2. The RSA Board is authorized to admit or exclude evidence and to rule upon all objections regarding evidence. The RSA Board may exclude irrelevant, immaterial or unduly repetitious evidence. An erroneous ruling on the admission or exclusion of evidence shall not affect the validity of the RSA Board's decision unless the ruling is shown to have substantially prejudiced the rights of a party.

3. Relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of a common law or statutory rule which makes improper the admission of the evidence over objection in a civil action. Hearsay evidence may be considered provided there are guarantees of its trustworthiness and that it is more probative on the point for which it is offered than any other evidence which the proponent can procure by reasonable efforts.

4. The RSA Board may take notice of judicially recognizable facts. The RSA Board shall notify the parties during the proceeding, and before the final decision, of material officially noticed and they shall be afforded an opportunity to contest the facts so noticed.

H. The Appellant shall bear the burden of proof by clear and convincing evidence regarding whether the vehicle was abandoned or junk.

I. The hearing shall be recorded. Any party desiring a formal transcript of the hearing may order one at their own expense.

J. Within ten (10) business days after the conclusion of the hearing, the RSA Board shall prepare a written decision as to whether the vehicle is subject to disposal under this chapter, and specifying the reasons for their decision. The borough clerk shall provide a copy of the decision to each person who appeared at the hearing and claimed an interest in the vehicle and to the roads director.

K. A decision under this section is appealable to the Superior Court in the Third Judicial District at Kenai as provided by court rules for administrative appeals.

12.08.140. Preservation of certain rights regarding junk or abandoned vehicles.

A. *Right to operate lawful junkyard or storage yard.* Nothing in this chapter shall be construed as limiting the right of any person to operate a lawful junkyard or storage yard.

B. Authority to abate public nuisances. Nothing in this chapter shall be construed to limit the right of the borough, pursuant to other provisions of this title and the common law, to abate summarily a public nuisance, including but not limited to the nuisances defined elsewhere in this code.

12.08.150. Definitions.

A. “Abandoned vehicle” means a motor vehicle left unattended, standing, or parked upon or within ten (10’) feet of the traveled portion of a public roadway, or a public right-of-way without the consent of the owner or person reasonably in charge of the property.

B. “Director” means the road service area director, or their designee.

C. “Junk vehicle” means a vehicle that:

1. Is not currently registered, except for a vehicle used exclusively for competitive racing; or

2. Is stripped, wrecked, or otherwise inoperable due to mechanical failure; or

3. Has not been repaired because of mechanical difficulties or because the cost of repairs required to make it operable exceeds the fair market value of the vehicle; or

4. Is in a condition that exhibits more than one of the following: broken glass, missing wheels or tires, missing body panels or parts, or missing drive train parts.

D. “Responsible Person” means the owner of a vehicle or a person authorized to drive, store, or control a vehicle.

E. “Vehicle” means a device in, upon, or by which a person or property may be transported or drawn upon or immediately over a highway or vehicular way or area and that is subject to registration; “vehicle” does not include (1) devices used exclusively upon stationary rails or tracks; (2) mobile homes. A vehicle includes but is not limited to cars, trucks, motorcycles, motorbikes, three and four wheelers, and snow machines; outboard, inboard or air boats; other recreational vehicles commonly driven; and all trailers and semitrailers.

F. “Vehicular way or area” means a way, path, or area, other than a highway or private property, that is designated by official traffic control devices or customary usage and that is open to the public for purposes of pedestrian or

vehicular travel, and which way or area may be restricted in use to pedestrians, bicycles, or other specific types of vehicles.

G. “Wrecked vehicle” means a vehicle that is disabled and cannot be used as a vehicle without substantial repair or reconstruction.

These definitions are for the purpose of this chapter only and shall not be used as definitions for other chapters.

12.08.160. General Penalty for Violation.

A violation of this section is an infraction within the terms of AS 28.90.010 and is punishable by the following fines:

<u>KPB 12.08.020</u>	<u>Unlawful Abandoned vehicle</u>	<u>\$100.00</u>
<u>KPB 12.08.040</u>	<u>Unlawful Junk vehicle</u>	<u>\$100.00</u>

SECTION 3. That this ordinance shall become effective immediately upon its enactment

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS * DAY OF *, 2020.

Kelly Cooper, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

Yes:

No:

Absent:

Kenai Peninsula Borough

Road Service Area

MEMORANDUM

TO: Kelly Cooper, Assembly President
Members, Kenai Peninsula Borough Assembly

THRU: Charlie Pierce, Mayor 

FROM: Dil Uhlin, Roads Director 

DATE: November 21, 2019

RE: Ordinance 2019-39, Repealing KPB 12.06 and Enacting KPB 12.08. –
Junk and Abandoned Vehicles (Mayor)

This ordinance would repeal KPB 12.06, Abandoned Vehicle Abatement Procedure, and replace it with KPB 12.08, Junk and Abandoned Vehicles. KPB 12.06 has proven to be inadequate for enforcing the removal of junk and abandoned vehicles within the borough as it lacks many of the requirements of Alaska Statute and fails to address junk vehicles.

The proposed KPB 12.08 not only incorporates Alaska Statutes, it also addresses vehicles which could be considered both junk and abandoned. The proposed code revision provides a mechanism for the Road Service Area to address the growing issue regarding the abandonment of vehicles on borough right-of-ways and/or borough property. Currently, due to the lack of an enforcement mechanism, individuals are abandoning their vehicles on borough property in order to avoid paying the landfill fees or the fees to drain the fluids in the vehicle. The aim of this ordinance is to make it more expensive to abandon a vehicle than to properly dispose of a vehicle, thereby encouraging owners to properly dispose of these vehicles.

This ordinance was introduced at the September 24, 2019 Road Service Area Board meeting and a motion was made to postpone this ordinance to allow more time for review. At its meeting held on October 29, 2019, the Road Service Area Board voted unanimously to recommend approval.

Introduced by: Mayor
Date: 12/03/19
Action:
Vote:

**KENAI PENINSULA BOROUGH
RESOLUTION 2019-070**

A RESOLUTION AUTHORIZING THE BOROUGH TO ENTER INTO A RESOURCE EXCHANGE AGREEMENT WITH TRIMARK EARTH RESERVE, LLC FOR THE CONSTRUCTION OF A ROAD TO AND THROUGH BOROUGH PROPERTY

- WHEREAS,** the borough owns a parcel of land, parcel identification number (PIN) 16913125, in the Anchor Point area; and
- WHEREAS,** the borough-owned parcel PIN 16913125 has dedicated but undeveloped right-of-way access to the property; and
- WHEREAS,** there are properties to the west and south of PIN 16913125 that do not have legal access; and
- WHEREAS,** the proposed resource exchange agreement (“agreement”) will enable Trimark Earth Reserve, LLC (“Trimark”) to develop the dedicated Van Seventer Avenue right-of-way and build a road through PIN 16913125 utilizing sand and gravel resources discovered within PIN 16913125 should they be available; and
- WHEREAS,** the agreement provides that if suitable material is found on PIN 16913125 then Trimark may use sand or gravel for the purpose of constructing a KPB Category III gravel road to borough road standards; and
- WHEREAS,** the agreement provides that, should Trimark need to provide its own sand and gravel resources for road construction, Trimark may remove a volume of sand and gravel resources from PIN 16913125 equal to the amount provided by Trimark, up to 10,000 cubic yards; and
- WHEREAS,** the sand and gravel resource exchange provided for in the agreement is contingent upon the discovery of suitable materials found on PIN 16913125; and
- WHEREAS,** the agreement does not obligate Trimark to build the road if suitable materials are not found on PIN 16913125; and
- WHEREAS,** the agreement benefits borough land through the construction of gravel road access to and through PIN 16913125 that complies with borough road standards; and
- WHEREAS,** if constructed, the road will benefit properties to the west and south of PIN 16913125 by providing road access to those properties; and

WHEREAS, all road improvement will remain the property of the borough upon completion; and

WHEREAS, pursuant to KPB 17.10.030(C)(3) assembly approval of the exchange shall be by resolution; and

WHEREAS, the planning commission at its regularly scheduled meeting of November 25, 2019, recommended_____;

NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

SECTION 1. That the mayor is authorized to execute a resource exchange agreement with Trimark Earth Reserve, LLC on substantially the same terms as the attached agreement providing for an exchange of sand and gravel resources for the construction of a road through the following described borough lands:

The S½ and S½NW¼ of Section 15, T5S, R15W, Seward Meridian, Alaska identified as parcel identification number (PIN) 169-131-25; and,

The Van Seventer Avenue right-of-way between the Old Sterling Highway as shown on the Van Seventer Lakes Subdivision plat, filed under Plat No. 92-37, Homer Recording District, Third Judicial District, State of Alaska.

SECTION 2. That this resolution shall take effect immediately upon its adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 3RD DAY OF DECEMBER, 2019.

Kelly Cooper, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

Yes:

No:

Absent:

Kenai Peninsula Borough
Planning Department

MEMORANDUM

TO: Kelly Cooper, Assembly President
Kenai Peninsula Borough Assembly Members

THRU: Charlie Pierce, Borough Mayor *CP*

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

DATE: November 26, 2019

RE: Resolution 2019-070; A Resolution Authorizing the Borough to Enter into a Resource Exchange Agreement with Trimark Earth Reserve, LLC for the Construction of a Road to and through Borough Property.

The Kenai Peninsula Borough Planning Commission reviewed the subject Resolution during their regularly scheduled November 25, 2019 meeting.

A motion passed by unanimous consent to recommend approval of Resolution 2019-070.

In the Resolution, please make the following amendment to the last WHEREAS statement:

WHEREAS, the planning commission at its regularly scheduled meeting of November 25, 2019, recommended approval by unanimous consent.

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

AGENDA ITEM F. PUBLIC HEARING

2. Resolution 2019-070; A Resolution Authorizing the Borough to Enter into a Resource Exchange Agreement with Trimark Earth Reserve, LLC for the Construction of a Road to and through Borough Property.

Staff Report given by Bryan Taylor

PC MEETING: November 25, 2019

This resolution, if adopted, will allow the Mayor to enter into an resource exchange agreement for sand and gravel resources. This goes in conjunction with a permit on the property. The permit is not before the Planning Commission at this time.

On page 71.1 of the packet, there is a project overview. The borough had an applicant that would like to construct a road across a borough parcel to access land that does not have any dedicated access at this time. The borough received the 400-acre parcel through municipal entitlement in the 80's. It was previously classified as rural and this past spring it was reclassified to residential. Land management is looking ahead to make sure it is prepared for a future land sale. As of now, the dedicated right-of-way is Van Seventer Avenue. The right-of-way is not constructed all the way to the parcel. The applicant wanting to construct the road across the property is Trimark Earth Reserve, LLC. There is an arrangement to get the rest of Van Seventer Avenue constructed and the applicant will be permitted to construct a road for access that will become an easement after construction.

The resource exchange agreement would allow materials to be used from the 400-acre parcel for the construction of the roads. Van Seventer is not fully constructed so materials may need to be brought in from another site to build access to the lot. The resource exchange agreement would extraction of resources from the parcel that are equal to what needs to be brought in to build Van Seventer. That is only up to 10,000 cubic yards. The applicant is under an obligation to build the road and the resource exchange agreement is only in effect if he is able to discover materials on the parcel. Exploration is part of the permit that will allow the road to be constructed.

END OF STAFF REPORT

Chairman Martin asked if anyone from the public wished to comment on this item. Seeing and hearing no one wishing to comment, Chairman Martin closed public comment and opened discussion among the Commission.

MOTION: Commissioner Ruffner moved, seconded by Commissioner Foster, to forward to the Assembly a recommendation to approve Resolution 2019-070; a resolution authorizing the borough to enter into a resource exchange agreement with Trimark Earth Reserve, LLC for the construction of a road to and through borough property.

Commissioner Ruffner wanted to know if the permit stipulates for the completion of Van Seventer and the to and through road to be built to road service area standards and to be part of the maintenance program. Mr. Taylor said that a condition of the permit is that it be built to a category 3, which can serve 20 lots or more. A requirement for the right-of-way is that a permit must be received through road services. They will be overseeing and make sure that the category 3 standard is met on the access to the property as well as the right-of-way.

Commissioner Ecklund referred to the map on page 69 of the packet. She noted that it was mentioned that it was recently classified as residential and wanted to verify that it was the area outlined in red. Mr. Taylor said that was correct. The pink areas on the map show the upland areas and the applicant is limited to explore for gravel in those areas. There are some lowlands on the parcel. Commissioner Ecklund asked if more than one road was being discussed to be built. Mr. Taylor referred to page 71.1 of the desk packet. Van Seventer Avenue is the dedicated road to be built and the yellow corridor is the other road. The second half of Van Seventer Avenue will be constructed to the west. The yellow line is where the road will be constructed to access the parcel to the west, which is the Trimark parcel. Commissioner Ecklund wanted

to know if there was any discussion of Trimark's future material site extraction in the area. The packet says that they will have to go through the process to get a conditional land use permit for material site extraction even on borough land. She wanted to know after the roads were constructed if there was any discussion about them continuing extraction since there is a lot of pink areas on the parcel. Mr. Taylor said there was no discussion about the future and the terms in which they are permitting is for the development of the roads themselves. Due to the classification of residential, there has not been any discussion of material extraction for any other purpose.

MOTION PASSED: Seeing and hearing no discussion or objection, the motion passed by unanimous consent.

UNAPPROVED

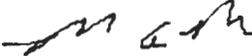
Kenai Peninsula Borough

Planning Department – Land Management Division

MEMORANDUM

TO: Kelly Cooper, Assembly President
Members, Kenai Peninsula Borough Assembly

THRU: Charlie Pierce, Mayor 
Max Best, Planning Director 

FROM: Marcus Mueller, Land Management Officer 

DATE: November 21, 2019

RE: Resolution 2019-070, Authorizing the Borough to Enter into a Resource Exchange Agreement with Trimark Earth Reserve, LLC for the Construction of a Road to and through Borough Property (Mayor)

The borough owns a parcel of land, identified for borough assessing purposes as parcel identification number (PIN) 16913125 (hereinafter the "property"). The property has dedicated but undeveloped right-of-way access.

The proposed resource exchange agreement (the "agreement") will enable Trimark Earth Reserve, LLC (Trimark) to develop the dedicated Van Seventer Avenue right-of-way and build a road through the property utilizing sand and gravel resources discovered within the property, should such resources be discovered. The agreement provides that if suitable material is found on the property then Trimark may use the sand or gravel for the purpose of constructing a KPB Category III gravel road to borough road standards. The agreement provides that, should Trimark need to provide its own sand and gravel resources for road construction, Trimark may remove a volume of sand and gravel resources from the property equal to the amount provided by Trimark, up to 10,000 cubic yards. The sand and gravel resource exchange provided for in the agreement is contingent upon the discovery of suitable materials found on the property and does not obligate Trimark to build the road if suitable materials are not found on the property.

Your consideration of this resolution is appreciated.

RESOURCE EXCHANGE AGREEMENT
KPB 17.10.030(C)(3)

This Resource Exchange Agreement (hereinafter the “Agreement”) is entered into by and between the Kenai Peninsula Borough, an Alaska municipal corporation, whose address is 144 North Binkley Street, Soldotna, Alaska 99669 (hereinafter referred to as "KPB") and Trimark Earth Reserve, LLC, whose address is 34481 North Fork Road, Anchor Point, AK 99556 (hereinafter referred to as “TRIMARK”). This is effective upon the execution date of the last party to sign the Agreement.

1. LANDS

Subject to other applicable provisions of this Agreement, and by KPB Resolution 2019-____ adopted December 3, 2019, the KPB will exchange with TRIMARK sand and gravel resources with respect to gravel road improvements upon the following described lands:

The S½ and S½NW¼ of Section 15, T5S, R15W, Seward Meridian, Alaska (hereinafter called "PROPERTY") identified as parcel identification number (PIN) 169-131-25 on Attachment A, attached hereto and incorporated by reference; and,

The Van Seventer Avenue right-of-way between the Old Sterling Highway and the above described PROPERTY (hereinafter called “VAN SEVENTER AVE”) as shown on the Van Seventer Lakes Subdivision plat, filed under Plat No. 92-37, Homer Recording District, Third Judicial District, State of Alaska.

2. RESOURCE EXCHANGE

Should suitable materials be discovered, KPB authorizes TRIMARK to utilize sand and gravel resources from an approved site on the PROPERTY for construction of a KPB Category III gravel road across the PROPERTY and/or through VAN SEVENTER AVE. All road improvement will remain the property of KPB. Construction activities must be authorized separately from this agreement. This agreement does not constitute a permit for any extraction activities. Any permits necessary for extraction of sand and gravel resources must be obtained by TRIMARK separately.

If it is necessary for TRIMARK to utilize its own sand and gravel resources for the construction of the KPB Category III gravel road across the PROPERTY and/or through

VAN SEVENTER AVE due to logistics of construction activities or the quality of available resources on the PROPERTY, KPB authorizes TRIMARK to remove a volume of sand and gravel material from the PROPERTY equal to the volume brought to the PROPERTY or the VAN SEVENTER AVE by TRIMARK for the purpose of constructing a KPB Category III gravel road through VAN SEVENTER AVE or across the PROPERTY as described within Land Use Permit LMD 19-25.

3. CONSIDERATION

The KPB and TRIMARK agree that use of sand and gravel resources from the PROPERTY for construction of the KPB Category III gravel road and the sand and gravel resource exchange described in Section 2 above mutually benefit each party. Each party agrees that any sand and gravel resources exchanged are contingent upon the discovery of suitable materials on the PROPERTY and represents the entire compensation due each party under this Agreement. Each party agrees that all sand and gravel resources utilized in the construction of a KPB Category III gravel road across the PROPERTY and/or through VAN SEVENTER AVE will remain the property of KPB.

4. QUANTITIES

The KPB authorizes TRIMARK to excavate and remove a volume of sand and gravel resources from the PROPERTY equal to the volume of resources Trimark brings to the PROPERTY and/or VAN SEVENTER AVE for the purpose of constructing a KPB Category III gravel road, not to exceed 10,000 cubic yards.

For any quantities exchanged under this agreement, TRIMARK shall generate load records with volume average truck counts or scale tickets. Tons will be converted to cubic yards on the basis of 1.6 tons per cubic yard. Records for any volume of sand and gravel material must be provided to KPB prior to removal of the equal volume from the PROPERTY.

TRIMARK shall keep dated records and delivery receipts denoting quantity and type of material removed from the PROPERTY and provide those records along with the attached certification form (Attachment B).

5. TERM

This exchange agreement is valid from December 4, 2019 through December 4, 2021, and may be extended beyond this date by mutual written agreement of both parties. Material extraction, equipment removal, and site cleanup must be completed on or before expiration of this agreement.

6. VIOLATION

Violation of agreement conditions, or the conduct of activities not authorized, will result in cancellation and may result in a claim for damages by KPB and/or other civil or criminal penalties as applicable under law. The KPB may direct that all activity under this agreement cease until a violation of the agreement conditions is corrected. Continued activity after notice to cease will be deemed a trespass. TRIMARK controls TRIMARK's activities on the PROPERTY and retains sole responsibility for ensuring that activities are conducted in a safe manner. TRIMARK shall comply with all federal, state and local requirements for its activities and shall obtain all necessary permits as may be required.

The KPB reserves the right to allow other concurrent, compatible uses or to exclude other uses of KPB-owned land on the PROPERTY. Should circumstances warrant, this Agreement may be modified or suspended, upon written notice by KPB, to protect resources, health, safety, and the environment.

7. DEFENSE AND INDEMNIFICATION

TRIMARK shall indemnify, defend, save and hold the borough, its elected and appointed officers, agents and employees, harmless from any and all claims, demands, suits, or liability of any nature, kind or character including costs, expenses, and attorneys' fees resulting from TRIMARK's negligent acts or omissions, willful misconduct, or performance or failure to perform in accord with the terms of this permit in any way whatsoever. TRIMARK shall be responsible under this clause for any and all claims of any character resulting from TRIMARK or TRIMARK 's officers, agents, employees, partners, attorneys, suppliers, and subcontractors performance or failure to perform this agreement in any way whatsoever. This defense and indemnification responsibility includes claims alleging acts or omissions by the borough or its agents which are said to have contributed to the losses, failure, violations, or damage. However, TRIMARK shall not be responsible for any damages or claims arising from the sole negligence or willful misconduct of the borough, its agents, or employees.

TRIMARK, ITS EMPLOYEES, OFFICERS AND ASSIGNEES ARE NOT EMPLOYEES OR CONTRACTORS OF THE KENAI PENINSULA BOROUGH AND DO NOT PERFORM ANY WORK AT THE DIRECTION OR UNDER THE SUPERVISION OF THE KENAI PENINSULA BOROUGH.

8. LIABILITY INSURANCE

TRIMARK shall purchase at its own expense and maintain in force at all times during the term of this agreement the following insurance policies:

Commercial general liability and automobile insurance: Policy to include bodily injury, personal injury, and property damage with respect to the property and the ACTIVITIES

conducted by TRIMARK in which the coverage shall not be less than \$1,000,000.00 per occurrence or such higher coverage as specified by KPB. The policy purchased shall name KPB as an additional insured with respect to the ACTIVITIES conducted on the property.

Proof of insurance: TRIMARK shall deliver to KPB certificates of insurance prior to commencing operations. This insurance shall be primary and exclusive of any other insurance held by KPB. TRIMARK must also provide certificates of insurance for its Worker's Compensation policy that provides for coverage limits that meet or exceed State of Alaska minimum requirements.

9. LOCATION

TRIMARK shall be responsible for locating itself and its resource extraction activities within the boundaries of KPB designated areas open to sand and gravel extraction, as shown on Attachment A.

10. CULTURAL RESOURCES

TRIMARK shall not disturb historic or prehistoric resources. Should previously undiscovered artifacts or areas of historic, prehistoric, or archaeological importance be discovered, the site shall be protected from further disturbance and TRIMARK shall immediately cease activities and contact KPB and the State Historic Preservation Office.

11. HAZARDOUS MATERIAL

TRIMARK shall not cause or permit any hazardous material or hazardous waste to be brought upon, kept, or used in or about the PROPERTY. The defense and indemnification clause of Section 7 extends to personal injury, property damage, and economic losses resulting from hazardous material or waste disposal.

12. SUITABILITY

The KPB does not represent or guarantee the safety, suitability, or condition of the PROPERTY. The KPB does not guarantee the presence of sand and gravel resources suitable for exchange under this agreement.

13. MINING PLAN

A Mining Plan shall be submitted by TRIMARK to KPB and shall be subject to written approval by KPB. The Mining Plan identifies the location of extraction areas for resources exchanged under this agreement. The Mining Plan also identifies methods for overburden removal and disposal from the PROPERTY. The Mining Plan shall consist of cross-section survey of uplands, methodology for site clearings, stripping and stockpiling of overburden, site restoration, provisions for drainage ditching and development of access, and other

information as may be required. The Mining Plan shall be the guiding documents for all extraction activities on the PROPERTY carried out under this agreement.

14. BOND

A bond in the amount of \$10,000 shall be provided by TRIMARK as a condition of this agreement. This bond shall be in the in the KPB'S name. The bond warrants TRIMARK will faithfully observe the terms and conditions of the agreement and may be used to partially defray any costs for restoration and rehabilitation of the PROPERTY, including without limitation environmental damage and clean up. Upon satisfactory compliance with all permit stipulations and termination of this permit, any balance remaining, including any remaining accrued interest will be returned to TRIMARK. This bond is in addition to other bonding that may be required as a condition of this agreement. This bond requirement is concurrent with, and not in addition to, the bond requirement in Trimark's Land Use Permit (19-25).

15. MODIFICATIONS

The parties may mutually agree to modify the terms of the agreement. Modifications to the agreement shall be incorporated into the agreement by written amendments.

16. JURISDICTION; CHOICE OF LAW

Any civil action arising from this agreement shall be brought in the superior court for the third judicial district of the State of Alaska at Kenai. The law of the State of Alaska shall govern the rights and obligations of the parties.

17. NON-WAIVER

The failure of KPB at any time to enforce a provision of this agreement shall in no way constitute a waiver of the provisions, nor in any way affect the validity of this agreement or any part thereof, or the right of KPB thereafter to enforce each and every protection hereof.

18. ENTIRE AGREEMENT

This exchange agreement and the documents referred to herein contain the entire agreement of the parties with respect to the subject matter hereof. Any changes additions or deletions hereto must be made in writing and signed by both KPB and TRIMARK or their respective successors in interest. Provisions of this agreement, unless inapplicable on their face, shall be covenants constituting terms and conditions of the exchange.

19. INTERPRETATION AND ENFORCEMENT

This agreement is being executed by the parties following negotiations between them. It shall be construed according to the fair intent of the language as a whole, not for or against any party. The titles of sections in this agreement are not to be construed as limitations or definitions but are for identification purposes only.

20. SEVERABILITY

If any section or clause of this agreement is held invalid by a court of competent jurisdiction, or is otherwise invalid under the law, the remainder of this agreement shall remain in full force and effect.

21. NOTICES

Any notice required pertaining to the subject matter of this agreement shall be personally delivered or mailed by prepaid first-class, registered or certified mail to the following addresses:

KENAI PENINSULA BOROUGH
Planning Director
144 N. Binkley
Soldotna, AK 99669-7599

TRIMARK
Trimark Earth Reserve LLC
34481 North Fork Rd.
Anchor Point, Alaska 99556

20. COUNTERPARTS

This Agreement may be executed in two or more counterparts, all of which shall constitute one and the same instrument. Each such counterpart shall be deemed an original.

KENAI PENINSULA BOROUGH:

Trimark Earth Reserve, LLC:

By: Charlie Pierece
Its: Mayor
Date: _____

By: Cap Shafter
Its: Member
Date: _____

OLD STERLING HIGHWAY

VAN SEVENTER AVE

PIN 169-131-25



Tree Plot Sites

Areas Open to Gravel Extraction

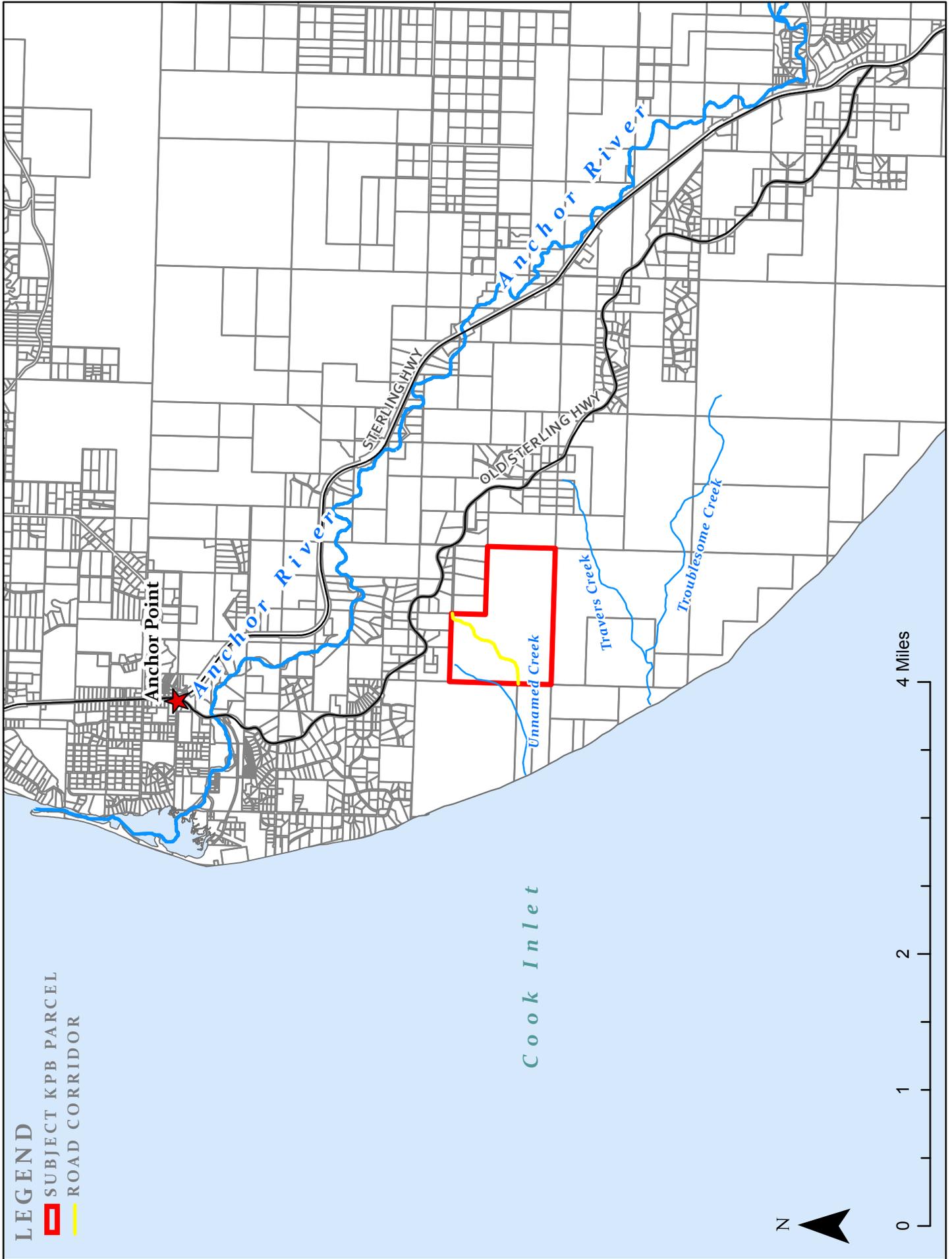
Attachment A

Cook Inlet



Tree Plot Sites

Project Overview



Introduced by: Mayor
Substitute Introduced: 12/03/19
Ordinance 2019-30 (Mayor): See Original Ordinance for Prior History
Hearing: 12/03/19
Action:
Vote:

**KENAI PENINSULA BOROUGH
ORDINANCE 2019-30
(MAYOR) SUBSTITUTE**

**AN ORDINANCE AMENDING KPB 21.29, KPB 21.25, AND KPB 21.50.055
REGARDING MATERIAL SITE PERMITS, APPLICATIONS, CONDITIONS, AND
PROCEDURES**

- WHEREAS,** Goal 2, Focus Area: Land Use and Changing Climate, Objective A of the 2019 Kenai Peninsula Borough Comprehensive Plan is to establish policies that better guide land use to minimize land use conflicts, maintain property values, protect natural systems and support individual land use freedoms; and
- WHEREAS,** Goal 2, Focus Area: Land Use and Changing Climate, Objective A, Strategy 1 of the 2019 Comprehensive Plan is to adopt limited development standards for specific areas and uses to reduce potential off site impacts of development on adjoining uses and the natural environment; and
- WHEREAS,** Goal 2, Focus Area: Land Use and Changing Climate, Objective A, Strategy 2 of the 2019 Comprehensive Plan is to update the Borough’s existing conditional use regulations for gravel extraction and other uses to better address reoccurring land use conflicts; and
- WHEREAS,** Goal 2, Focus Area: Land Use and Changing Climate, Objective A, Strategy 2a of the 2019 Comprehensive Plan is to clarify the broad purpose of the conditional use process and clear parameters for allowable conditional uses that include reasonable, project-specific conditions that reduce impacts on surrounding uses, and if/when a conditional use permit can be denied and consider establishing conditions that require larger setbacks, safety and visual screening, control on access routes, control on hours of operation, and address environmental concerns; and
- WHEREAS,** Goal 2, Focus Area: Land Use and Changing Climate, Objective A, Strategy 2d of the 2019 Comprehensive Plan is to complete improvements to the rules guiding gravel extraction, with the goal of providing an appropriate balance between providing access to affordable materials for development and protecting quality of life for borough residents; and

- WHEREAS,** Goal 1 of the Mining and Minerals Processing section of the 1990 Kenai Peninsula Borough Coastal Management Program is to provide opportunities to explore, extract and process minerals, sand and gravel resources, while protecting environmental quality and other resource users; and
- WHEREAS,** an assembly subcommittee was formed in 2005 to review the material site code; and
- WHEREAS,** Ordinance 2006-01 (Substitute) codified as KPB 21.29 was adopted in 2006 after consideration of the subcommittee’s report; and
- WHEREAS,** the planning department has been administering Ordinance 2006-01 (Substitute), codified as KPB 21.29 for 13 years; and
- WHEREAS,** KPB 21.25.040 requires a permit for the commencement of certain land uses within the rural district of the Kenai Peninsula Borough; and
- WHEREAS,** the planning department has recognized that certain provisions of the material site ordinance could be better clarified for the operators, public, and staff; and
- WHEREAS,** the planning commission and planning department received comments expressing concerns about dust, noise, safety, and aesthetics; and
- WHEREAS,** approximately 253 registered prior existing use material sites and approximately 99 conditional land use permits for material sites have been granted since 1996;
- WHEREAS,** the planning department receives numerous complaints regarding unreclaimed parcels registered as nonconforming prior existing material sites which have not been regulated by KPB; and
- WHEREAS,** the assembly established a material site work group by adoption of resolution 2018-004 (Substitute) to engage in a collaborative discussion involving the public and industry to make recommendations regarding the material site code; and
- WHEREAS,** assembly resolution 2018-025 extended the deadline for the final report to be submitted to the assembly, administration and planning commission to April 30, 2019; and
- WHEREAS,** certain additional conditions placed on material site permits would facilitate a reduction in the negative secondary impacts of material sites, e.g. dust, noise, safety, and unsightliness of material sites; and
- WHEREAS,** at its regularly scheduled meeting of November 12, 2019, the Planning Commission recommended approval by unanimous consent;

NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

SECTION 1. That KPB 21.25.030 is hereby amended, as follows:

21.25.030. - Definitions.

Unless the context requires otherwise, the following definitions apply to CLUPs:

Abandon means to cease or discontinue a use without intent to resume, but excluding short-term interruptions to use or activity during periods of remodeling, maintaining, or otherwise improving or rearranging a facility or during normal periods of vacation or seasonal closure. An "intent to resume" can be shown through continuous operation of a portion of the facility, maintenance of utilities, or outside proof of continuance, e.g., bills of lading or delivery records. Abandonment also means the cessation of use, regardless of voluntariness, for a specified period of time.

Animal feeding operation means a lot or facility (other than an aquatic animal production facility) where animals (other than aquatic animals) have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period.

- a. The same animals need not remain on the lot for 45 days or more; rather, some animals are fed or maintained on the lot 45 days out of any 12-month period, and
- b. Animals are "maintained" for purposes of this ordinance when they are confined in an area where waste is generated and/or concentrated or are watered, cleaned, groomed, or medicated in a confined area, even if the confinement is temporary.
- c. Two or more animal feeding operations under common ownership are considered, for the purposes of these regulations, to be a single animal feeding operation if they adjoin each other.
- d. Slaughterhouses are animal feeding operations.

Animal unit means a unit of measurement for any animal feeding operation calculated by adding the following numbers: the number of slaughter and feeder cattle multiplied by 1.0, plus the number of mature dairy cattle multiplied by 1.4, plus the number of swine weighting [weighing] over 25 kilograms (approximately 55 pounds) multiplied by 0.4, plus the number of sheep multiplied by 0.1, plus the number of horses multiplied by 2.0.

Animal waste means animal excrement, animal carcasses, feed wasted, process wastewaters or any other waste associated with the confinement of animals from an animal feeding operation.

Animal waste management system means a combination of structures and nonstructural practices serving an animal feeding operation that provides for the collection, treatment, disposal, distribution, storage and land application of animal waste.

Aquifer means a subsurface formation that contains sufficient water-saturated permeable material to yield economical quantities of water to wells and springs.

Aquifer-confining layer means that layer of relatively impermeable soil below an aquifer, typically clay, which confines water.

Assisted living home means a residential facility that serves three or more adults who are not related to the owner by blood or marriage, or that receives state or that receives state or federal payment for service of the number of adults served. The services and activities may include, but are not limited to, housing and food services to its residents, assistance with activities of daily living, and personal assistance, and that complies with Alaska Statutes 47.32.0101 – 47.60.900, as amended.

Child care facility means a place where child care is regularly provided for children under the age of 12 for periods of time that are less than 24 hours in duration and that is licensed pursuant to AS 47.35.005 et seq., excluding child care homes and child care group homes, as currently written or hereafter amended.

Commercial means any provision of services, sale of goods, or use operated for production of income whether or not income is derived, including sales, barter, rental, or trade of goods and services.

Concentrated animal feeding operation (CAFO) means an animal feeding operation confining at least: (1) 1,000 swine weighing at least approximately 55 pounds; (2) 1,000 slaughter and feeder cattle; (3) 700 mature dairy cattle; (4) 500 horses; (5) 10,000 sheep or lambs; (6) 55,000 turkeys; (7) 100,000 laying hens or broilers (if the facility has continuous overflow watering); (8) 30,000 laying hens or broilers (if the facility has a liquid manure system); (9) 5,000 ducks; (10) 1,000 animal units; or (11) a combination of the above resulting in at least 1,000 animal units. Each individual parcel upon which a CAFO is located is a separate CAFO unless they adjoin each other.

Conditioning or processing material means a value-added process including batch plants, asphalt plants, screening, washing, and crushing by use of machinery.

Correctional community residential center (CCRC) means a community residential center, other than a correctional institution, for the short-term or temporary detention of prisoners in transition from a correctional institution, performing restitution, or undergoing rehabilitation or recovery from a legal infirmity. CCRCs may not be used for detention of prisoners who pose a threat or danger to the public for violent or sexual misconduct without imprisonment or physical confinement under guard or twenty-four-hour physical supervision. The determination of whether a prisoner poses a threat or danger to the public for violent or sexual misconduct without imprisonment or physical confinement under guard or twenty-four-hour physical supervision shall be made by the commissioner of corrections for state prisoners and the United States Attorney General, or the U.S. Director of Bureau of Prisons for federal prisoners.

Correctional institution means a facility other than a correctional community residential center providing for the imprisonment or physical confinement or detention of prisoners under guard or twenty-four-hour physical supervision, such as prisons, prison farms, jails, reformatories, penitentiaries, houses of detention, detention centers, honor camps, and similar facilities.

Development plan means a plan created to describe a proposed development on a specific building site excluding material sites under KPB 21.29.020.

Disturbed includes active excavation and all areas necessary to use a parcel as a material site including but not limited to berms, stockpiles, and excavated areas excluding all areas reclaimed for alternate post mining land uses.

[EXHAUSTED MEANS THAT ALL MATERIAL OF A COMMERCIAL QUALITY IN A SAND, GRAVEL, OR MATERIAL SITE HAS BEEN REMOVED.]

Federal prisoners means offenders in the custody or control or under the care or supervision of the United States Attorney General or the Bureau of Prisons.

Groundwater means, in the broadest sense, all subsurface water, more commonly that part of the subsurface water in the saturated zone.

Haul route includes the roads used to haul materials from the permit area to a roadway designated as collector, arterial or interstate by the Alaska Department of Transportation & Public Facilities.

Liquid manure or liquid animal waste system means any animal waste management system which uses water as the primary carrier of such waste into a primary retention structure.

Multi-purpose senior center is a facility where persons 60 years of age or older are provided with services and activities suited to their particular needs. The

services and activities may include, but are not limited to, health examinations, legal assistance, recreation programs, general social activities, telephone reassurance programs, nutrition classes, meals at minimum cost, counseling, protective services, programs for shut-ins and education programs, and that complies with Alaska Statutes 47.60.010—47.60.090, as currently written or hereafter amended.

Permit area includes all excavation, processing, buffer and haul route areas of a CLUP or counter permit.

Person shall include any individual, firm, partnership, association, corporation, cooperative, or state or local government.

Prisoner means:

- a. a person held under authority of state law in official detention as defined in AS 11.81.900;
- b. includes a juvenile committed to the custody of the Alaska Department of Corrections Commissioner when the juvenile has been charged, prosecuted, or convicted as an adult.

Private school is a school comprised of kindergarten through 12th grade, or any combination of those grades, that does not receive direct state or federal funding and that complies with either Alaska Statute 14.45.030 or 14.45.100—14.45.130, as currently written or hereafter amended.

Public school is a school comprised of kindergarten through 12th grade, or any combination of those grades, that is operated by the State of Alaska or any political subdivision of the state.

Sand, gravel or material site means an area used for extracting, quarrying, or conditioning gravel or substances from the ground that are not subject to permits through the state location (mining claim) system (e.g., gold, silver, and other metals), nor energy minerals including but not limited to coal, oil, and gas.

Seasonal high groundwater table means the highest level to which the groundwater rises on an annual basis.

Senior housing project means senior housing as defined for purposes of construction or operation in 15 Alaska Administrative Code 151.950(c), as currently written or hereafter amended.

Stable condition means the rehabilitation, where feasible, of the physical environment of the site to a condition that allows for the reestablishment of

renewable resources on the site within a reasonable period of time by natural processes.

Surface water means water on the earth's surface exposed to the atmosphere such as rivers, lakes, and creeks.

Topsoil means material suitable for vegetative growth.

Vicinity means the same as the area of notification.

Waterbody means any lake, pond, stream, riparian wetland, or groundwater into which storm water runoff is directed.

Water source means a well, spring or other similar source that provides water for human consumptive use.

SECTION 2. That KPB 21.29 is hereby amended, as follows:

CHAPTER 21.29. MATERIAL SITE PERMITS

21.29.010. Material extraction exempt from obtaining a permit.

- A. Material extraction which disturbs an area of less than one acre that is not in a mapped flood plain or subject to 21.29.010(B), does not enter the water table, and does not cross property boundaries, does not require a permit. There will be no excavation within 20 feet of a right-of-way or within ten feet of a lot line.
- B. Material extraction taking place on dewatered bars within the confines of the Snow River and the streams within the Seward-Bear Creek Flood Service Area does not require a permit, however, operators subject to this exemption shall provide the planning department with the information required by KPB 21.29.030(A)(1), (2), (6), (7) and a current flood plain development permit prior to beginning operations.
- C. A prior existing use under KPB 21.29.120 does not require a material extraction permit, but a floodplain development permit is required for all activities within any mapped special flood hazard area.
- D. Material extraction incidental to site development does not require a permit when an approved site development plan is on file with the planning department. Site development plans are approved by the planning director and are valid for one year. The site development plan may be renewed on an annual basis subject to the planning director's approval.

21.29.020. Material extraction and activities requiring a permit.

- A. *Counter permit.* A counter permit is required for material extraction which disturbs no more than 2.5 cumulative acres and does not enter the water table. Counter permits are approved by the planning director, and are not subject to the notice requirements or planning commission approval of KPB 21.25.060. A counter permit is valid for a period of 12 months, with a possible 12-month extension.

- B. *Conditional land use permit.* A conditional land use permit (CLUP) is required for material extraction which disturbs more than 2.5 cumulative acres, or material extraction of any size that enters the water table. A CLUP is required for materials processing. A CLUP is valid for a period of five years. The provisions of KPB Chapter 21.25 are applicable to material site CLUPS and the provisions of KPB 21.25 and 21.29 are read in harmony. If there is a conflict between the provisions of KPB 21.25 and 21.29, the provisions of KPB 21.29 are controlling.

21.29.030. Application procedure.

- A. In order to obtain a counter permit or CLUP, an applicant shall first complete and submit to the borough planning department a permit application, along with the fee listed in the most current Kenai Peninsula Borough Schedule of Rates, Charges and Fees. The planning director may determine that certain contiguous parcels are eligible for a single permit. The application shall include the following items:
 - 1. Legal description of the parcel, KPB tax parcel ID number, and identification of whether the permit is for the entire parcel, or a specific location within a parcel;
 - 2. Expected life span of the material site;
 - 3. A buffer plan consistent with KPB 21.29.050(A)(2);
 - 4. Reclamation plan consistent with KPB 21.29.060;
 - 5. The depth of excavation;
 - 6. Type of material to be extracted and type of equipment to be used;
 - 7. Any voluntary permit conditions the applicant proposes. Failure to include a proposed voluntary permit condition in the application does not preclude the applicant from proposing or agreeing to voluntary permit conditions at a later time;

8. Surface water protection measures, if any, for adjacent properties designed by a civil engineer, including the use of diversion channels, interception ditches, on-site collection ditches, sediment ponds and traps, and silt fence;
9. A site plan and field verification prepared by a professional surveyor licensed and registered in the State of Alaska, including the following information:
 - a. Location of excavation, and, if the site is to be developed in phases, the life span and expected reclamation date for each phase;
 - b. Proposed buffers consistent with KPB 21.29.050(A)(2), or alternate buffer plan;
 - c. Identification of all encumbrances, including, but not limited to easements;
 - d. Points of ingress and egress. Driveway permits must be acquired from either the state or borough as appropriate prior to the issuance of the material site permit;
 - e. Anticipated haul routes;
 - f. Location and [DEPTH] elevation of test holes, and depth of groundwater, if encountered between May and December. At least one test hole per ten acres of excavated area is required to be dug. The test holes shall be at least four feet below the proposed depth of excavation;
 - g. Location of wells of adjacent property owners within 300 feet of the proposed parcel boundary;
 - h. Location of any water body on the parcel, including the location of any riparian wetland as determined by "Wetland Mapping and Classification of the Kenai Lowland, Alaska" maps created by the Kenai Watershed Forum;
 - [I. SURFACE WATER PROTECTION MEASURES FOR ADJACENT PROPERTIES, INCLUDING THE USE OF DIVERSION CHANNELS, INTERCEPTION DITCHES, ON-SITE COLLECTION DITCHES, SEDIMENT PONDS AND TRAPS, AND SILT FENCE; PROVIDE DESIGNS FOR SUBSTANTIAL STRUCTURES; INDICATE WHICH

STRUCTURES WILL REMAIN AS PERMANENT FEATURES AT THE CONCLUSION OF OPERATIONS, IF ANY;]

[J]i. Location of any processing areas on parcel, if applicable;

[K]j. North arrow;

[L]k. The scale to which the site plan is drawn;

[M]l. Preparer's name, date and seal;

[N]m. Field verification shall include staking the boundary of the parcel at sequentially visible intervals. The planning director may grant an exemption in writing to the staking requirements if the parcel boundaries are obvious or staking is unnecessary.

B. In order to aid the planning commission or planning director's decision-making process, the planning director shall provide vicinity, aerial, land use, and ownership maps for each application and may include additional information.

21.29.040. Standards for sand, gravel or material sites.

A. These material site regulations are intended to protect against aquifer disturbance, road damage, physical damage to adjacent properties, dust, noise, and visual impacts. Only the conditions set forth in KPB 21.29.050 may be imposed to meet these standards:

1. Protects against the lowering of water sources serving other properties;
2. Protects against physical damage to [OTHER] adjacent properties;
3. [MINIMIZES] Protects against off-site movement of dust;
4. [MINIMIZES] Protects against noise disturbance to other properties;
5. [MINIMIZES] Protects against visual impacts of the material site; [AND]
6. Provides for alternate post-mining land uses[.];
7. Protects Receiving Waters against adverse effects to fish and wildlife habitat;

- 8. Protects against traffic impacts; and
- 9. Provides consistency with the objectives of the Kenai Peninsula Borough Comprehensive Plan and other applicable planning documents.

21.29.050. Permit conditions.

A. The following mandatory conditions apply to counter permits and CLUPs issued for sand, gravel or material sites:

1. *[PARCEL]Permit boundaries.* [ALL BOUNDARIES OF THE SUBJECT PARCEL] The buffers and any easements or right-of-way abutting the proposed permit area shall be staked at sequentially visible intervals where parcel boundaries are within 300 feet of the excavation perimeter. Field verification and staking will require the services of a professional land surveyor. Stakes shall be in place [AT TIME OF APPLICATION] prior to issuance of the permit.

[2. *BUFFER ZONE.* A BUFFER ZONE SHALL BE MAINTAINED AROUND THE EXCAVATION PERIMETER OR PARCEL BOUNDARIES. WHERE AN EASEMENT EXISTS, A BUFFER SHALL NOT OVERLAP THE EASEMENT, UNLESS OTHERWISE CONDITIONED BY THE PLANNING DIRECTOR OR PLANNING COMMISSION.

A. THE BUFFER ZONE SHALL PROVIDE AND RETAIN A BASIC BUFFER OF:

I. 50 FEET OF UNDISTURBED NATURAL VEGETATION, OR

II. A MINIMUM SIX-FOOT EARTHEN BERM WITH AT LEAST A 2:1 SLOPE, OR

III. A MINIMUM SIX-FOOT FENCE.

B. A 2:1 SLOPE SHALL BE MAINTAINED BETWEEN THE BUFFER ZONE AND EXCAVATION FLOOR ON ALL INACTIVE SITE WALLS. MATERIAL FROM THE AREA DESIGNATED FOR THE 2:1 SLOPE MAY BE REMOVED IF SUITABLE, STABILIZING MATERIAL IS REPLACED WITHIN 30 DAYS FROM THE TIME OF REMOVAL.

C. THE PLANNING COMMISSION OR PLANNING DIRECTOR SHALL DESIGNATE ONE OR A COMBINATION OF THE ABOVE AS IT DEEMS APPROPRIATE. THE VEGETATION AND FENCE SHALL BE OF SUFFICIENT HEIGHT AND DENSITY TO PROVIDE VISUAL AND NOISE SCREENING OF THE PROPOSED USE AS DEEMED

APPROPRIATE BY THE PLANNING COMMISSION OR PLANNING DIRECTOR.

- D. BUFFERS SHALL NOT CAUSE SURFACE WATER DIVERSION WHICH NEGATIVELY IMPACTS ADJACENT PROPERTIES OR WATER BODIES. SPECIFIC FINDINGS ARE REQUIRED TO ALTER THE BUFFER REQUIREMENTS OF KPB 21.29.050(A)(2)(A) IN ORDER TO MINIMIZE NEGATIVE IMPACTS FROM SURFACE WATER DIVERSION. FOR PURPOSES OF THIS SECTION, SURFACE WATER DIVERSION IS DEFINED AS EROSION, FLOODING, DEHYDRATION OR DRAINING, OR CHANNELING. NOT ALL SURFACE WATER DIVERSION RESULTS IN A NEGATIVE IMPACT.
- E. AT ITS DISCRETION, THE PLANNING COMMISSION MAY WAIVE BUFFER REQUIREMENTS WHERE THE TOPOGRAPHY OF THE PROPERTY OR THE PLACEMENT OF NATURAL BARRIERS MAKES SCREENING NOT FEASIBLE OR NOT NECESSARY. BUFFER REQUIREMENTS SHALL BE MADE IN CONSIDERATION OF AND IN ACCORDANCE WITH EXISTING USES OF ADJACENT PROPERTY AT THE TIME OF APPROVAL OF THE PERMIT. THERE IS NO REQUIREMENT TO BUFFER THE MATERIAL SITE FROM USES WHICH COMMENCE AFTER THE APPROVAL OF THE PERMIT.]

2. *Buffer Area.* Material sites shall maintain buffer areas in accord with this section.

- a. A buffer area of a maximum of 100 feet shall be established between the area of excavation and the parcel boundaries. The buffer area may include one or more of the following: undisturbed natural vegetation, a minimum six-foot fence, a minimum six-foot berm or a combination thereof.
- b. A 2:1 slope shall be maintained between the buffer zone and excavation floor on all inactive site walls. Material from the area designated for the 2:1 slope may be removed if suitable, stabilizing material is replaced within 30 days from the time of removal.
- c. Where an easement exists, a buffer shall not overlap the easement, unless otherwise conditioned by the planning commission or planning director, as applicable.
- d. The buffer area may be reduced where the planning commission or planning director, as applicable, has approved an alternate buffer plan. The alternate buffer plan must consist of natural undisturbed vegetation, a minimum six-foot berm,

or a minimum six-foot fence or a combination thereof; unless the permittee proposes another solution approved by the planning commission or planning director, as applicable, to meet this condition.

e. The buffer requirements may be waived by the planning commission or planning director, as applicable, where the topography of the property or the placement of natural barriers makes screening not feasible or unnecessary.

f. There is no requirement to buffer a material site from uses that commence after approval of the permit.

g. When a buffer area has been denuded prior to review of the application by the planning commission or planning director revegetation may be required.

3. *Processing.* In the case of a CLUP, any equipment which conditions or processes material must be operated at least 300 feet from the parcel boundaries. At its discretion, the planning commission may waive the 300-foot processing distance requirement, or allow a lesser distance in consideration of and in accordance with existing uses of [OF ADJACENT PROPERTY AT THE TIME] the properties in the vicinity at the time of approval of the permit.

4. *Water source separation.*

a. All permits shall be issued with a condition which prohibits any material extraction within 100 horizontal feet of any water source existing prior to original permit issuance.

b. All counter permits shall be issued with a condition which requires that a four-foot vertical separation [FROM]between extraction operations and the seasonal high water table be maintained.

c. All CLUPS shall be issued with a condition which requires that a [TWO] four-foot vertical separation [FROM]between extraction operations and the seasonal high water table be maintained.

d. There shall be no dewatering either by pumping, ditching or some other form of draining unless an exemption is granted by the planning commission. The exemption for dewatering may be granted if the operator provides a statement under seal and supporting data from a duly licensed and qualified impartial

civil engineer, that the dewatering will not lower any of the surrounding property's water systems and the contractor posts a bond for liability for potential accrued damages.

5. *Excavation in the water table.* Excavation in the water table greater than 300 horizontal feet of a water source may be permitted with the approval of the planning commission based on the following:
 - a. Certification by a qualified independent civil engineer or professional hydrogeologist that the excavation plan will not negatively impact the quantity of an aquifer serving existing water sources.
 - b. The installation of a minimum of three water monitoring tubes or well casings as recommended by a qualified independent civil engineer or professional hydrogeologist adequate to determine flow direction, flow rate, and water elevation.
 - c. Groundwater elevation, flow direction, and flow rate for the subject parcel, measured in three-month intervals by a qualified independent civil engineer or professional hydrogeologist, for at least one year prior to application. Monitoring tubes or wells must be kept in place, and measurements taken, for the duration of any excavation in the water table.
 - d. Operations shall not breach an aquifer-confining layer.
6. *Waterbodies.*
 - a. An undisturbed buffer shall be left and no earth material extraction activities shall take place within [100] 200 linear feet from excavation limits and the ordinary high water level of surface water bodies such as a lake, river, stream, [OR OTHER WATER BODY, INCLUDING] riparian wetlands and mapped floodplains as defined in KPB 21.06. This regulation shall not apply to man-made waterbodies being constructed during the course of the materials extraction activities. In order to prevent discharge, diversion, or capture of surface water, an additional setback from lakes, rivers, anadromous streams, and riparian wetlands may be required.
 - b. Counter permits and CLUPS may contain additional conditions addressing surface water diversion.

7. *Fuel storage.* Fuel storage for containers larger than 50 gallons shall be contained in impermeable berms and basins capable of retaining 110 percent of storage capacity to minimize the potential for uncontained spills or leaks. Fuel storage containers 50 gallons or smaller shall not be placed directly on the ground, but shall be stored on a stable impermeable surface.
8. *Roads.* Operations shall be conducted in a manner so as not to damage borough roads as required by KPB 14.40.175 and will be subject to the remedies set forth in KPB 14.40 for violation of this condition.
9. *Subdivision.* Any further subdivision or return to acreage of a parcel subject to a conditional land use or counter permit requires the permittee to amend their permit. The planning director may issue a written exemption from the amendment requirement if it is determined that the subdivision is consistent with the use of the parcel as a material site and all original permit conditions can be met.
10. *Dust control.* Dust suppression is required on haul roads within the boundaries of the material site by application of water or calcium chloride.
11. *Hours of operation.* [ROCK CRUSHING EQUIPMENT SHALL NOT BE OPERATED BETWEEN 10:00 P.M. AND 6:00 A.M.]
 - a. Processing equipment shall not be operated between 7:00 p.m. and 6:00 a.m.
 - b. The planning commission may grant exceptions to increase the hours of operation and processing based on surrounding land uses, topography, screening the material site from properties in the vicinity and conditions placed on the permit by the planning commission to mitigate the noise, dust and visual impacts caused by the material site.
12. *Reclamation.*
 - a. Reclamation shall be consistent with the reclamation plan approved by the planning commission or planning director as appropriate in accord with KPB 21.29.060.
 - b. [AS A CONDITION OF ISSUING THE PERMIT, THE APPLICANT SHALL SUBMIT A RECLAMATION PLAN AND POST A BOND TO COVER THE ANTICIPATED RECLAMATION COSTS IN AN AMOUNT TO BE DETERMINED BY THE PLANNING DIRECTOR. THIS BONDING REQUIREMENT SHALL NOT APPLY TO SAND, GRAVEL

OR MATERIAL SITES FOR WHICH AN EXEMPTION FROM STATE BOND REQUIREMENTS FOR SMALL OPERATIONS IS APPLICABLE PURSUANT TO AS 27.19.050.] The applicant shall operate the material site consistent with the approved reclamation plan and provide bonding pursuant to 21.29.060(B). This bonding requirement shall not apply to sand, gravel or material sites for which an exemption from state bond requirements for small operations is applicable pursuant to AS 27.19.050.

13. *Other permits.* Permittee is responsible for complying with all other federal, state and local laws applicable to the material site operation, and abiding by related permits. These laws and permits include, but are not limited to, the borough's flood plain, coastal zone, and habitat protection regulations, those state laws applicable to material sites individually, reclamation, storm water pollution and other applicable Environmental Protection Agency (EPA) regulations, clean water act and any other U.S. Army Corp of Engineer permits, any EPA air quality regulations, EPA and ADEC air and water quality regulations, EPA hazardous material regulations, U.S. Dept. of Labor Mine Safety and Health Administration (MSHA) regulations (including but not limited to noise and safety standards), and Federal Bureau of Alcohol, Tobacco and Firearm regulations regarding using and storing explosives. Any violation of these regulations or permits reported to or observed by borough personnel will be forwarded to the appropriate agency for enforcement.
14. [~~VOLUNTARY~~]Volunteered permit conditions. Conditions may be included in the permit upon agreement of the permittee and approval of the planning commission for CLUPs or the planning director for counter permits. Such conditions must be consistent with the standards set forth in KPB 21.29.040(A). Planning commission approval of such conditions shall be contingent upon a finding that the conditions will be in the best interest of the borough and the surrounding property owners. [~~VOLUNTARY~~] Volunteered permit conditions apply to the subject parcel and operation, regardless of a change in ownership. A change in [~~VOLUNTARY~~] volunteered permit conditions may be proposed [AT] by permit [RENEWAL OR AMENDMENT] modification.
15. *Signage.* For permitted parcels on which the permittee does not intend to begin operations for at least 12 months after being granted a conditional land use permit, the permittee shall post notice of intent on parcel corners or access, whichever is more visible. Sign dimensions shall be no more than 15" by 15" and must contain the following information: the phrase "Permitted Material Site" along with the permittee's business name and a contact phone number.

16. Appeal. No clearing of vegetation shall occur within the 100-foot maximum buffer area from the permit boundary nor shall the permit be issued or operable until the deadline for the appeal, pursuant to KPB 21.20, has expired.
17. Sound level.
- a. No sound resulting from the materials extraction activities shall create a sound level, when measured at or within the property boundary of the adjacent land, that exceeds 75 dB(A).
 - b. For any sound that is of short duration between the hours of 7 a.m. and 7 p.m. the levels may be increased by:
 - i. Five dB(A) for a total of 15 minutes in any one hour; or
 - ii. Ten dB(A) for a total of five minutes in any hour; or
 - iii. Fifteen db(A) for a total of one and one-half minutes in any one-hour period.
 - c. At its discretion, the planning commission or planning director, as applicable, may reduce or waive the sound level requirements on any or all property boundaries. Sound level requirements shall be made in consideration of and in accordance with existing uses of the properties in the vicinity at the time of approval of the permit.
 - d. Mandatory condition KPB 21.29.050(A)(17) shall expire 365 days from adoption of KPB 21.29.050(A)(17) unless extended or modified by the assembly.
18. Reverse signal alarms. Reverse signal alarms, used at the material site on loaders, excavators, and other earthmoving equipment shall be more technically advanced devices; such as, a multi-frequency “white noise” alarms rather than the common, single (high-pitch) tone alarms. At its discretion, the planning commission or planning director, as applicable, may waive this requirement or a portion of this requirement. The waiver of this requirement shall be made in consideration of and in accordance with existing uses of the properties in the vicinity at the time of approval of the permit.
19. Ingress and egress. The planning commission or planning director may determine the points of ingress and egress for the material site. The permittee is not required to construct haul routes outside the

parcel boundaries of the material site. Driveway authorization must be acquired, from either the state through an “Approval to Construct” or a borough road service area as appropriate, prior to issuance of a material site permit when accessing a public right-of-way.

20. *Dust suppression.* Dust suppression shall be required when natural precipitation is not adequate to suppress the dust generated by the material site traffic on haul routes. Based on surrounding land uses the planning commission or planning director, as applicable, may waive or reduce the requirement for dust suppression on haul routes.
21. *Surface water protection.* Use of surface water protection measures as specified in KPB 21.29.030(A)(8) must be approved by a licensed civil engineer.
22. *Groundwater elevation.* All material sites must maintain one monitoring tube per ten acres of excavated area four feet below the proposed excavation.
23. *Setback.* Material site excavation areas shall be 250-feet from the property boundaries of any local option zoning district, existing public school ground, private school ground, college campus, child care facility, multi-purpose senior center, assisted living home, and licensed health care facility. If overlapping, the buffer areas of the excavation shall be included in the 250-foot setback.

21.29.055. Decision.

The planning commission or planning director, as applicable, shall approve permit applications meeting the mandatory conditions or shall disapprove permit applications that do not meet the mandatory conditions. The decision shall include written findings supporting the decision, and when applicable, there shall be written findings supporting any site-specific alterations to the mandatory condition as specifically allowed by KPB 21.29.050(A)(2)(a), (2)(c), (2)(d), (2)(e), (2)(g), (3), (4)(d), (5), (11)(b), (12), (14), (17)(c), (18), (19), and (20) and as allowed for the KPB 21.29.060 reclamation plan.

21.29.060. Reclamation plan.

- A. All material site permit applications require an overall reclamation plan along with a five-year reclamation plan. A site plan for reclamation shall be required including a scaled drawing with finished contours. A five-year reclamation plan must be submitted with a permit extension request.
- B. The applicant shall revegetate with a non-invasive plant species and reclaim all disturbed land [UPON EXHAUSTING THE MATERIAL ON-SITE, OR WITHIN A

PRE-DETERMINED TIME PERIOD FOR LONG-TERM ACTIVITIES, SO AS TO LEAVE THE LAND IN A STABLE CONDITION. RECLAMATION MUST OCCUR FOR ALL EXHAUSTED AREAS OF THE SITE EXCEEDING FIVE ACRES BEFORE A FIVE-YEAR RENEWAL PERMIT IS ISSUED, UNLESS OTHERWISE REQUIRED BY THE PLANNING COMMISSION. IF THE MATERIAL SITE IS ONE ACRE OR LESS IN SIZE AND HAS BEEN GRANTED A CLUP DUE TO EXCAVATION IN THE WATER TABLE, RECLAMATION MUST BE PERFORMED AS SPECIFIED BY THE PLANNING COMMISSION OR PLANNING DIRECTOR IN THE CONDITIONAL USE OR COUNTER PERMIT] within the time period approved with the reclamation plan so as to leave the land in a stable condition. Bonding shall be required at \$2,000.00 per acre for all acreage included in the current five-year reclamation plan. In the alternative, the planning director may accept a civil engineer's estimate for determining the amount of bonding. If the applicant is bonded with the state, the borough's bonding requirement is waived. Compliance with reclamation plans shall be enforced under KPB 21.50.

- C. The following measures must be considered in the [PREPARING] preparation, approval and [IMPLEMENTING] implementation of the reclamation plan, although not all will be applicable to every reclamation plan.
1. Topsoil that is not promptly redistributed to an area being reclaimed will be separated and stockpiled for future use. [THIS MATERIAL WILL BE PROTECTED FROM EROSION AND CONTAMINATION BY ACIDIC OR TOXIC MATERIALS AND PRESERVED IN A CONDITION SUITABLE FOR LATER USE.]
 2. The area will be backfilled, graded and recontoured using strippings, overburden, and topsoil [TO A CONDITION THAT ALLOWS FOR THE REESTABLISHMENT OF RENEWABLE RESOURCES ON THE SITE WITHIN A REASONABLE PERIOD OF TIME. IT WILL BE STABILIZED TO A CONDITION THAT WILL ALLOW SUFFICIENT MOISTURE FOR REVEGETATION] so that it will be stabilized to a condition that will allow for the revegetation as required by KPB 21.29.060(B).
 3. [SUFFICIENT QUANTITIES OF STOCKPILED OR IMPORTED TOPSOIL WILL BE SPREAD OVER THE RECLAIMED AREA TO A DEPTH OF FOUR INCHES TO PROMOTE NATURAL PLANT GROWTH THAT CAN REASONABLY BE EXPECTED TO REVEGETATE THE AREA WITHIN FIVE YEARS. THE APPLICANT MAY USE THE EXISTING NATURAL ORGANIC BLANKET REPRESENTATIVE OF THE PROJECT AREA IF THE SOIL IS FOUND TO HAVE AN ORGANIC CONTENT OF 5% OR MORE AND MEETS THE SPECIFICATION OF CLASS B TOPSOIL REQUIREMENTS AS SET BY ALASKA TEST METHOD (ATM) T-6.] The [MATERIAL] topsoil used for reclamation shall be reasonably free from roots, clods, sticks, and branches greater than 3 inches in diameter. Areas having slopes

greater than 2:1 require special consideration and design for stabilization by a licensed engineer.

4. Exploration trenches or pits will be backfilled. Brush piles and unwanted vegetation shall be removed from the site, buried or burned. Topsoil and other organics will be spread on the backfilled surface to inhibit erosion and promote natural revegetation.
5. [PEAT AND T]Topsoil mine operations shall ensure a minimum of [TWO] four inches of suitable growing medium is left or replaced on the site upon completion of the reclamation activity (unless otherwise authorized).
6. Ponding may be used as a reclamation method as approved by the planning commission.

D. The five-year reclamation plan shall describe the total acreage to be reclaimed [EACH YEAR, A LIST OF EQUIPMENT (TYPE AND QUANTITY) TO BE USED IN RECLAMATION, AND A TIME SCHEDULE OF RECLAMATION MEASURES] relative to the total excavation plan.

21.29.070. Permit extension and revocation.

- A. Conditional land use permittees must submit a request in writing for permit extension every five years after the permit is issued. Requests for permit extension must be made at least 30 days prior to permit expiration. Counter permittees must submit any request for a 12-month extension at least 30 days prior to the expiration of the original 12-month permit period.
- B. A permit extension certificate for a CLUP may be granted by the planning director after 5 years, and after one year for a counter permit where no modification to operations or conditions are proposed.
- C. Permit extension may be denied if: (1) reclamation required by this chapter and the original permit has not been performed; (2) the permittee is otherwise in noncompliance with the original permit conditions; or (3) the permittee has had a permit violation in the last two years and has not fulfilled compliance requests.
- D. A modification application shall be processed pursuant to KP.B 21.29.030-050 with public notice given as provided by KP.B 21.25.060 when operators request modification of their permit conditions based on changes in operations set forth in the modification application.
- E. There shall be no fee for permit extensions approved by the planning director. The fee for a permit modification processed under KP.B

21.29.070(D) will be the same as an original permit application in the amount listed in the most current Kenai Peninsula Borough Schedule of Rates, Charges and Fees.

- F. Failure to submit a request for extension will result in the expiration of the permit. The borough may issue a permit termination document upon expiration pursuant to KPB 21.29.080. Once a permit has expired, a new permit application approval process is required in order to operate the material site.
- G. Permits may be revoked pursuant to KPB 21.50. 21.29.080. - Permit termination.

When a permit expires, is revoked, or a permittee requests termination of their permit, a review of permit conditions and site inspections will be conducted by the planning department to ensure code compliance and verify site reclamation prior to termination. When the planning director determines that a site qualifies for termination, a termination document shall be issued to the permittee.

21.29.090. Permit modifications.

If a permittee revises or intends to revise operations (at a time other than permit extension) so that they are no longer consistent with the original application, a permit modification is required. The planning director shall determine whether the revision to operations requires a modification. Permit modification shall be processed in the same manner as original permits.

21.29.100. Recordation.

All permits, permit extensions, modified permits, prior existing uses, and terminations shall be recorded. Failure to record a material site document does not affect the validity of the documents.

21.29.110. Violations.

- A. Violations of this chapter shall be governed by KPB 21.50.
- B. In addition to the remedies provided in KPB 21.50, the planning director may require bonding in a form and amount adequate to protect the borough's interests for an owner or operator who has been cited for three violations of KPB 21.50, 21.25, and 21.29 within a three-year period. The violations need not be committed at the same material site. Failure to provide requested bonding may result in permit revocation proceedings.

21.29.120. Prior existing uses.

- A. Material sites are not held to the standards and conditions of a CLUP if a prior existing use (PEU) determination was granted for the parcel in accordance with KPB 21.29.120(B). To qualify as a PEU, a parcel's use as a material site must have commenced or have been operated after May 21, 1986, and prior to May 21, 1996, provided that the subject use continues in the same location. In no event shall a prior existing use be expanded beyond the smaller of the lot, block, or tract lines as they existed on May 21, 1996. If a parcel is further subdivided after May 21, 1996, the pre-existing use may not be expanded to any lot, tract, or parcel where extraction had not occurred before or on February 16, 1999. If a parcel is subdivided where extraction has already occurred, the prior existing use is considered abandoned, and a CLUP must be obtained for each parcel intended for further material site operations. The parcel owner may overcome this presumption of abandonment by showing that the subdivision is not inconsistent with material site operation. If a parcel subject to a prior existing use is conveyed, the prior existing use survives the conveyance.

- B. Owners of sites must have applied to be registered as a prior existing use prior to January 1, 2001.

- C. [ANY PRIOR EXISTING USE THAT HAS NOT OPERATED AS A MATERIAL SITE BETWEEN MAY 21, 1996, AND MAY 21, 2011, IS CONSIDERED ABANDONED AND MUST THEREAFTER COMPLY WITH THE PERMIT REQUIREMENTS OF THIS CHAPTER. THE PLANNING DIRECTOR SHALL DETERMINE WHETHER A PRIOR EXISTING USE HAS BEEN ABANDONED. AFTER GIVING NOTICE TO THE PARCEL OWNER THAT A PEU IS CONSIDERED ABANDONED, A PARCEL OWNER MAY PROTEST THE TERMINATION OF THE PEU BY FILING WRITTEN NOTICE WITH THE PLANNING DIRECTOR ON A FORM PROVIDED BY THE PLANNING DEPARTMENT. WHEN A PROTEST BY A PARCEL OWNER IS FILED, NOTICE AND AN OPPORTUNITY TO MAKE WRITTEN COMMENTS REGARDING PRIOR EXISTING USE STATUS SHALL BE ISSUED TO OWNERS OF PROPERTY WITHIN A ONE-HALF MILE RADIUS OF THE PARCEL BOUNDARIES OF THE SITE. THE OWNER OF THE PARCEL SUBJECT TO THE PRIOR EXISTING USE MAY SUBMIT WRITTEN INFORMATION, AND THE PLANNING DIRECTOR MAY GATHER AND CONSIDER ANY INFORMATION RELEVANT TO WHETHER A MATERIAL SITE HAS OPERATED. THE PLANNING DIRECTOR MAY CONDUCT A HEARING IF HE OR SHE BELIEVES IT WOULD ASSIST THE DECISION-MAKING PROCESS. THE PLANNING DIRECTOR SHALL ISSUE A WRITTEN DETERMINATION WHICH SHALL BE DISTRIBUTED TO ALL PERSONS MAKING WRITTEN COMMENTS. THE PLANNING DIRECTOR'S DECISION REGARDING TERMINATION OF THE PRIOR EXISTING USE STATUS MAY BE APPEALED TO THE PLANNING COMMISSION WITHIN 15 DAYS OF THE DATE OF THE NOTICE OF DECISION.]

The owner of a material site that has been granted a PEU determination shall provide proof of compliance with AS 27.19.030 – 050 concerning

reclamation to the planning department no later than July 1, 2021. The proof shall consist of an Alaska Department of Natural Resources (DNR) approved reclamation plan and receipt for bonding or a letter of intent filed with DNR.

1. The planning department may request proof of continued compliance with AS 27.19.030 – 050 on an annual basis.
2. Pursuant to KPB 21.29.110 the enforcement process and remedies set forth in KPB 21.50 shall govern if the proof that the statutory requirements contained in AS 27.19.030-050 is not provided to the planning department.

SECTION 3. That KPB 21.50.055 is hereby amended, as follows:

21.50.055. Fines.

- A. Following are the fines for violations of this title. Each day a violation occurs is a separate violation. Violations begin to accrue the date the enforcement notice is issued and continue to the date the enforcement is initially set for hearing. The fine for a violation may not be reduced by the hearing officer to less than the equivalent of one day's fine for each type of violation.

Code Chapter & Section	Violation Description	Daily Fine
KPB 20.10.030(A)	Offering land for sale without final plat approval	\$300.00
KPB 20.10.030(B)	Filing/recording unapproved subdivision/plat	\$300.00
KPB 20.10.030(C)	Violation of subdivision code or condition	\$300.00
KPB 21.05.040(C)	Violation of variance conditions	\$300.00
KPB 21.06.030(D)	Structure or activity prohibited by KPB 21.06	\$300.00
KPB 21.06.040	Failure to obtain a Development Permit/Floodplain Management	\$300.00
KPB 21.06.045	Failure to obtain a SMFDA Development Permit/Violation of SMFDA permit conditions/Floodplain Management	\$300.00
KPB 21.06.050	Violation of permit conditions/Floodplain Management	\$300.00

KPB 21.18.071	Failure to obtain staff permit/Violation of staff permit/Anadromous Streams Habitat Protection	\$300.00
KPB 21.18.072	Failure to obtain limited commercial activity permit/Violation of permit conditions/Anadromous Streams Habitat Protection	\$300.00
KPB 21.18.075	Prohibited use or structure/Anadromous Streams Habitat Protection	\$300.00
KPB 21.18.081	Failure to obtain Conditional Use Permit/Violation of Conditional Use Permit Condition/Anadromous Streams Habitat Protection	\$300.00
KPB 21.18.090	Failure to obtain prior existing use/structure permit/Violation of permit conditions/Anadromous Streams Habitat Protection	\$300.00
KPB 21.18.135(C)	Violation of emergency permit conditions/anadromous stream habitat protection	\$300.00
KPB 21.25.040	Failure to Obtain a Permit/Material Site/Correctional community residential center/Concentrated Animal Feeding Operation	\$300.00
KPB 21.28.030	Violation of permit conditions/Concentrated Animal Feeding Operations	\$300.00
KPB 21.29.020	Failure to Obtain a counter permit/Material Site Permits	\$300.00
KPB 21.29.050	Violation of Conditional Land Use Permit Conditions/Material Site Permits Also applies to KPB 21.26 material site permits	\$300.00
KPB 21.29.060	Violation of Reclamation Plan/Material Site Permits Also applies to KPB 21.26 material site permits	\$300.00
<u>KPB 21.29.120</u>	<u>Failure to Provide Reclamation Plan and Proof of Bonding or Letter of Intent</u>	<u>\$300.00</u>
KPB 21.44.100	Violation of Pre-existing structures/Local Option Zoning	\$300.00
KPB 21.44.110(D)	Prohibited expansion of nonconforming use/Local Option Zoning	\$300.00

KPB 21.44.110(E)	Prohibited Change in Use/Local Option Zoning	\$300.00
KPB 21.44.110(G)	Violation of Conditions on Nonconforming Use/Local Option Zoning	\$300.00
KPB 21.44.130(C)(D)	Violation of Home Occupation Standards and Conditions/Local Option Zoning	\$300.00
KPB 21.44.130(F)	Disallowed Home Occupation/Local Option Zoning	\$300.00
KPB 21.44.135	Failure to file development notice	\$300.00
KPB 21.44.160(A)(B)	Prohibited use	\$300.00
KPB 21.44.160(C)	Violation of Development Standards/Single Family Zoning/Local Option Zoning	\$300.00
KPB 21.44.165(A)(B)	Prohibited use	\$300.00
KPB 21.44.165(C)	Violation of Development Standards/Small Lot Residential Zoning/Local Option Zoning	\$300.00
KPB 21.44.170(A)(B)	Prohibited use	\$300.00
KPB 21.44.170(C)	Violation of Development Standards/Rural Residential District/Local Option Zoning	\$300.00
KPB 21.44.175(B)(C)	Prohibited Use	\$300.00
KPB 21.44.175(D)	Violation of Development Standards/Residential Waterfront	\$300.00
KPB 21.44.180(A)(B)	Prohibited Use	\$300.00
KPB 21.44.180(C)	Violation of Development Standards/Multi-Family Residential District/Local Option Zoning	\$300.00
KPB 21.44.190(A)(B)	Prohibited Use	\$300.00
KPB 21.44.190(C)	Violation of Development Standards/Industrial District/Local Option Zoning	\$300.00

KPB 21.46.030(b)	Failure to maintain bear-resistant garbage cans/Local option zone/Birch and Grove Ridge subdivisions Rural Residential District	\$300.00
KPB 21.50.100(F)	Removal of posted enforcement notice	\$300.00
KPB 21.50.100(G)	Violation of enforcement notice	\$1,000.00
KPB 21.50.130(I)	Violation of an enforcement order	\$1,000.00

SECTION 4. That this ordinance shall become effective upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS * DAY OF * 2019.

Kelly Cooper, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

Yes:

No:

Absent:

Kenai Peninsula Borough Planning Department

MEMORANDUM

TO: Kelly Cooper, Assembly President
Members, Kenai Peninsula Borough Assembly

THRU: Charlie Pierce, Mayor CP
Max Best, Planning Director MB

FROM: Bruce Wall, Planner BW

DATE: November 21, 2019

RE: Ordinance 2019-30 (Mayor) Substitute, Amending KPB 21.29, KPB 21.25, and KPB 21.50.055 Regarding Material Site Permits, Applications, Conditions, and Procedures (Mayor)

The borough assembly passed ordinance 2019-25 which adopted the 2019 Kenai Peninsula Borough Comprehensive Plan. Ordinance 2019-30, regarding amending code provisions relating to material site permits, was introduced prior to the assembly adopting the 2019 Comprehensive Plan. The first six "whereas clauses" found in ordinance 2019-30 reference the 2005 Comprehensive Plan. Therefore, this substitute ordinance changes the first six whereas clauses to reference the 2019 Comprehensive Plan goals.

In addition, the planning commission recommended three further amendments to this substitute ordinance which are incorporated into this substitute ordinance sponsored by the mayor. The planning commission amendments are as follows:

[Please note the underlined bold language is new and the bold strikeout language in brackets is to be deleted.]

- Amend two of the whereas clauses as follows:

The 12th Whereas clause (also described as the 4th whereas clause on page two of the substitute ordinance) is amended to read: "WHEREAS, the planning commission and planning department received comments expressing concern about dust, noise, safety, and aesthetics;"

The 17th whereas clause (also described as the 9th whereas on page two of the ordinance) is amended to read: "WHEREAS, certain additional conditions placed on material site permits would facilitate a reduction in

Page -2-
November 21, 2019
RE: O2019-30 (Mayor) Substitute

the negative secondary impacts of material sites, e.g. dust, noise, **safety**, and unsightliness of material sites;"

- In Section 2 amend KPB 21.29.050(A)(16) as follows:

21.29.050. – Permit conditions.

A. The following mandatory conditions apply to counter permits and CLUPs issued for sand, gravel or material sites:

...

16. Appeal. "No clearing of vegetation shall occur within the 100 foot maximum buffer area from the permit boundary nor shall the permit be issued or operable until the deadline for the appeal, pursuant to KPB 21.20, has expired."

- In Section 2 amend KPB 21.29.055(A)(16) as follows:

21.29.055. – Decision

The planning commission or planning director, as applicable, shall approve permit applications meeting the mandatory conditions or shall disapprove permit applications that do not meet the mandatory conditions. The decision shall include written findings **supporting the decision**, ~~explaining how the application meets the mandatory permit conditions~~ and when applicable, there shall be written findings supporting any site-specific alterations to the mandatory condition as specifically allowed by KPB 21.29.050(A)(2)(a), (2)(c), (2)(d), (2)(e), (2)(g), (3), (4)(d), (5), (11)(b), (12), (14), (17)(c), (18), (19), and (20) and as allowed for the KPB 21.29.060 reclamation plan.

Your consideration of this substitute ordinance is appreciated.

Introduced by:

Mayor

Date:

01/07/20

Action:

Vote:

**KENAI PENINSULA BOROUGH
RESOLUTION 2020-001**

**A RESOLUTION ADOPTING AN ALTERNATE ALLOCATION METHOD FOR THE
FY20 SHARED FISHERIES BUSINESS TAX PROGRAM AND CERTIFYING THAT
THIS ALLOCATION METHOD FAIRLY REPRESENTS THE DISTRIBUTION OF
SIGNIFICANT EFFECTS OF FISHERIES BUSINESS ACTIVITY IN THE COOK
INLET FISHERIES MANAGEMENT AREA**

WHEREAS, AS 29.60.450 requires that for a municipality to participate in the FY20 Shared Fisheries Business Tax Program, the municipality must demonstrate to the Department of Commerce, Community, and Economic Development that the municipality suffered significant effects during calendar year 2018 from fisheries business activities; and

WHEREAS, 3 AAC 134.060 provides for the allocation of available program funding to eligible municipalities located within fisheries management areas (“FMA”) specified by the Department of Commerce, Community, and Economic Development; and

WHEREAS, 3 AAC 134.070 provides for the use, at the discretion of the Department of Commerce, Community, and Economic Development, of alternative allocation methods which may be used within fisheries management areas if all eligible municipalities within the area agree to use the method and the method incorporates some measure of the relative significant effect of fisheries business activity on the respective municipalities in the area; and

WHEREAS, the Kenai Peninsula Borough Assembly proposes to use an alternative allocation method for allocation of the FY20 funding available within the FMA14: Cook Inlet fisheries management area in agreement with all other municipalities in this area participating in the FY20 Shared Fisheries Business Tax Program;

NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

SECTION 1. That by this resolution the Assembly certifies that the Kenai Peninsula Borough did suffer significant effects during calendar year 2018 from fisheries business activities that occurred within the Cook Inlet fisheries management area and wishes to apply for funding under the FY20 Shared Fisheries Business Tax Program.

SECTION 2. All eligible communities in the Cook Inlet fisheries management area will receive fifty percent (50%) divided equally, and fifty percent (50%) divided on a per capita basis.

SECTION 3. That this resolution takes effect immediately upon its adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 7TH DAY OF JANUARY, 2020.

Kelly Cooper, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

Yes:

No:

Absent:

Kenai Peninsula Borough

Finance Department

MEMORANDUM

TO: Kelly Cooper, Assembly President
Members, Kenai Peninsula Borough Assembly

THRU: Charlie Pierce, Mayor *CP*

FROM: Brandi Harbaugh, Finance Director *BH*

DATE: December 26, 2019

SUBJECT: Resolution 2020-001, Adopting an Alternate Allocation Method for the FY20 Shared Fisheries Business Tax Program and Certifying that this Allocation Method Fairly Represents the Distribution of Significant Effects of Fisheries Business Activity in the Cook Inlet Fisheries Management Area (Mayor)

In order for the Kenai Peninsula Borough to participate in the FY20 Shared Fisheries Business Tax Program, the Borough Assembly must submit a resolution indicating the adoption of an alternative method for allocation of the FY20 available funding. If the municipalities within each fisheries management area choose not to select the alternative method, it would then become necessary to gather and submit data on actual cost impacts of commercial fishing within each designated area. Given the relatively small amount of funds available, this approach would not be cost effective. A resolution adopting the alternative method is attached for your approval.

The Kenai Peninsula Borough is located in the Cook Inlet Fisheries Management Area. The municipalities located in this area include Anchorage, Homer, Kenai, Kenai Peninsula Borough, Kachemak, Seldovia, Seward, and Soldotna. The FY20 program total allocation to be received by the borough is expected to be about \$1,636.11.

Introduced by:
Date:
Action:
Vote:

Mayor
01/07/20

**KENAI PENINSULA BOROUGH
RESOLUTION 2020-002**

**A RESOLUTION UPDATING THE KENAI PENINSULA BOROUGH
SCHEDULE OF RATES, CHARGES AND FEES, PURSUANT TO
KPB 1.26**

- WHEREAS,** KPB 12.06 regarding abandoned vehicles allows the borough to remove vehicles from borough rights-of-way or from borough or private property if the vehicle's location abuts a borough right-of-way; and
- WHEREAS,** after removal, the borough is mandated under Alaska law, to store the vehicle while it locates the legal owners and any lienholders, and then issues all of them notice of the removal and of their right to a hearing; and
- WHEREAS,** due to the amount of information that is required to be gathered as well as the potential for a hearing, a vehicle may be required to be stored for a lengthy period of time; and
- WHEREAS,** the borough lacks its own wrecker to tow the abandoned vehicles adding to the costs of removing them from the rights-of-way; and
- WHEREAS,** a revised chapter 12.06 has been proposed in ordinance 2019-39, enacting KPB 12.08 which would better encompass state law as well as current borough processes; and
- WHEREAS,** the proposed revision expands the reach of the borough to include junk cars rather than only abandoned cars; and
- WHEREAS,** the proposed revision mirrors state law by allowing the borough to remove vehicles abandoned or junked on borough property and along borough roads; and
- WHEREAS,** while fines for abandonment of cars or for having junk cars on the borough's right-of-way are proposed, these fines will have little impact on the actual costs involved in removing the vehicles from the borough rights-of-way; and
- WHEREAS,** the proposed fees would allow the borough to recapture its costs and have a more accurate figure to provide to a vehicle owner or lien holder who desires to reclaim their vehicle;

NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

SECTION 1. That the following schedule of non-refundable fees is hereby authorized:

Roads

Vehicle Towing	Actual Cost
Impound Fee (per day up to a maximum of 30 days)	\$25.00/day
Administrative Fee (DMV Search, Certified Mail, Advertising)	\$35.00*
* Per vehicle owner/lienholder	
Disposal Prep Fee	\$150.00

SECTION 2. This resolution shall take effect immediately upon adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 7TH DAY OF JANUARY, 2020.

Kelly Cooper, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

Yes:

No:

Absent:

Kenai Peninsula Borough Road Service Area

MEMORANDUM

TO: Kelly Cooper, Assembly President
Members, Kenai Peninsula Borough Assembly

THRU: Charlie Pierce, Mayor CP

FROM: Dil Uhlin, Roads Director DU

DATE: December 26, 2019

RE: Resolution 2020-002, Updating the Kenai Peninsula Borough Schedule of Rates, Charges and Fees, Pursuant to KPB 1.26 (Mayor)

The Kenai Peninsula Borough Road Service Area routinely removes vehicles from borough rights-of-way. Many of these vehicles are either broken down or are in such a state of disrepair that they are considered junk vehicles and should be disposed of in the landfill. These vehicles are often left on the rights-of-way deliberately by owners as an inexpensive way of disposal of the vehicles.

Currently there is no fee schedule for the disposal of these vehicles resulting in large costs to the borough. Updating the fee schedule will help to defray the cost of removing, storing and disposing of the vehicles and will dissuade owners from abandoning them in the rights-of-way in the future. Updating the fee schedule will also bring the borough within the prevailing fees charged by other boroughs.

The assembly's consideration of this resolution is appreciated.

Introduced by: Hibbert
Date: 01/07/20
Action:
Vote:

**KENAI PENINSULA BOROUGH
RESOLUTION 2020-003**

**A RESOLUTION APPROVING THE KENAI PENINSULA TOURISM AND
MARKETING PROGRAM OBJECTIVES FOR FISCAL YEAR 2020 AND 2021**

WHEREAS, the Kenai Peninsula Tourism and Marketing Council (“KPTMC”) did not receive funding from the borough in the FY 2020 budget; and

WHEREAS, ordinance 2019-19-15 was enacted November 5, 2019 and appropriated \$150,000 for the purpose of promoting tourism in the areas outside of the cities in the borough; and

WHEREAS, the assembly is required by KPB 19.10.020 to annually approve program objectives for tourism promotion grants; and

WHEREAS, ordinance 2019-19-15 also required KPTMC to submit its program objectives to the assembly for approval prior to the grant award; and

WHEREAS, as grant applications for tourism promotion from qualified entities must be submitted by February 15th of each year, this resolution approves the program objectives for both FY 2020 and FY 2021;

**NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE KENAI
PENINSULA BOROUGH:**

SECTION 1. That the Kenai Peninsula Borough Assembly approves the following tourism and marketing program objectives for the remainder of FY 2020 and for FY 2021 in the areas of the borough outside of the cities:

- A. Develop and implement strategies for attracting online impressions and conversions, and tracking conversions of impressions to sales in the tourism markets; and
- B. Promote significant increases in tourism during the shoulder seasons.

SECTION 2. This resolution shall become effective immediately upon adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 7TH DAY OF JANUARY, 2020.

Kelly Cooper, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

Yes:

No:

Absent:

Kenai Peninsula Borough Assembly

MEMORANDUM

TO: Kelly Cooper, Assembly President
Members, Kenai Peninsula Borough Assembly

FROM: Brent Hibbert, Assembly Member *BH*

DATE: December 26, 2019

RE: Resolution 2020-003, Approving the Kenai Peninsula Borough Tourism and Marketing Program Objectives for Fiscal Year 2020 and 2021 (Hibbert)

In ordinance 2019-19-15 the assembly appropriated \$150,000 for a grant to be awarded to the Kenai Peninsula Tourism & Marketing Council for Fiscal Year 2020. This resolution approves the program objectives for tourism promotion to comply with Section 2 of that ordinance and KPB 19.10.020. The objectives are:

1. Develop and implement strategies for attracting online impressions¹ (e.g. a view of an ad) and conversions², and tracking conversions of impressions to sales in the tourism markets; and
2. Promote significant increases in tourism during the shoulder seasons.

This resolution also approves these program objectives for FY 2021 as the FY 2021 grant applications are due February 15, 2020. The code requires the assembly to approve the program objectives before any applications may be approved or expenditures made from tourism marketing grants. Approving these now allows any applicant to tailor their application to meet these objectives.

Your approval would be appreciated.

¹ An impression occurs when an ad or other form of digital media is rendered or viewed on a user's screen.

² A conversion occurs when a website visitor completes a desired goal such as making a purchase.

Introduced by: Smalley
Date: 01/07/20
Action:
Vote:

**KENAI PENINSULA BOROUGH
RESOLUTION 2020-004**

A RESOLUTION SUPPORTING THE CITY OF KENAI'S REQUEST FOR THE KENAI PENINSULA BOROUGH TO SELECT THROUGH ITS MUNICIPAL ENTITLEMENT, LAND DESCRIBED AS T.6N., R.11W. SEC. 31, LOTS 40, 41, AND 42 CONTAINING 3.75 ACRES, FROM THE STATE OF ALASKA FOR THE CITY OF KENAI TO ENABLE THE CONTINUED MAINTENANCE AND OPERATION OF THE 4TH AVENUE MUNICIPAL PARK

WHEREAS, the City of Kenai ("City") currently maintains 4th Avenue Park ("Park") in the City and has done so since the 1970's; and

WHEREAS, the City's maintenance of the Park enhances not only the aesthetics and recreational opportunities in the neighborhood for residents and visitors, but also protects public safety; and

WHEREAS, the United States Bureau of Land Management ("BLM") reasserted ownership of the Park in 2000, recording its decision in 2018, and recently purported to grant its ownership to the State of Alaska; and

WHEREAS, the property on which the Park sits was originally patented from the BLM to the North Kenai Home Owners Association ("HOA") with the restriction that it could only be used for playground purposes and could not be further conveyed without BLM consent; and

WHEREAS, in 1978 the Kenai Peninsula Borough foreclosed on the property for non-payment of property taxes and a Clerk's Deed was issued to the City; and

WHEREAS, the Bureau of Land Management's decision to re-assert ownership of the Park based on "conveyance" to the City by the HOA ignores the decision by the Kenai Superior Court granting title to the City, the borough's statutorily authorized foreclosure process, and decades of management and oversight by the City; and

WHEREAS, neither the federal government nor state has provided any maintenance or management activities on the parcel; and

WHEREAS, rather than litigate the issue with the federal government, the City's legal department worked with the federal government, state, and the Kenai Peninsula Borough Planning Department to map out a less expensive and more timely process moving forward, for the borough to select the parcel from the state through its

municipal entitlement pursuant to AS 29.65.010, and reconvey it at no cost to the City; and

WHEREAS, the borough was granted in excess of 150,000 acres of municipal entitlement, and selecting less than four acres for the City is de minimis in this regard and will benefit the public users of the Park;

NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

SECTION 1. That the Kenai Peninsula Borough is respectfully requested to move forward with selection of T.6N., R.11W. SEC. 31, Lots 40, 41, and 42 containing 3.75 acres through its municipal entitlement.

SECTION 2. That this resolution takes effect immediately upon its adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 7TH DAY OF JANUARY, 2020.

Kelly Cooper, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

Yes:

No:

Absent:

Kenai Peninsula Borough Assembly

MEMORANDUM

TO: Kelly Cooper, Assembly President
Members, Kenai Peninsula Borough Assembly

FROM: Hal Smalley, Assembly Member *(H) for N.S.*

DATE: December 26, 2019

RE: Resolution 2020-004, Supporting the City of Kenai's Request for the Kenai Peninsula Borough to Select Through its Municipal Entitlement, Land Described as T6N., R11W. Sec. 31, Lots 40, 41, and 42, Containing 3.75 Acres, From the State of Alaska for the City of Kenai to Enable the Continued Maintenance and Operation of the 4th Avenue Municipal Park (Smalley)

The park located on 4th Avenue in the City of Kenai was originally patented by the Bureau of Land Management ("BLM") to the North Kenai Home Owners Association with the restriction that it could only be used for playground purposes. Also, it could not be conveyed without BLM's consent. Since the 1970's, the City of Kenai has maintained this park with no involvement or assistance by the state or federal governments.

In 1978 the borough foreclosed on this property for non-payment of property taxes and, as required by Alaska Statute 29.45.450, the clerk of court issued a Clerk's Deed conveying this property to the City of Kenai as it is located in the city limits. The BLM reasserted its ownership of this property in 2000, apparently because BLM's permission was not obtained to transfer this ownership. The BLM recorded its decision in 2018.

The City's legal department has worked with the federal and state governments, and with the borough planning department, to identify a resolution to this dispute without incurring litigation costs. It requests that the borough select this 3.75-acre parcel from the state as a part of its municipal entitlement, and convey it to the City of Kenai. The park is open to and used by the general public, and the borough does not have park powers in this area.

Your support of this resolution would be appreciated.



N SPRUCE ST

FIFTH AVE

ASH AVE

CINDY CIR

CINDY LN

DOREND
CT

FOURTH AVE

THIRD AVE

BIRCH ST

FIFTH CT

ASPEN ST

Gov. Lots 40, 41, & 42
T6N, R11W, Section 31
Seward Meridian, AK

FLOATPLANE RD

Introduced by: Cooper at the Request of the
Borough Clerk
Date: 01/07/20
Action:
Vote:

**KENAI PENINSULA BOROUGH
RESOLUTION 2020-005**

**A RESOLUTION AUTHORIZING A QUARTERLY UPDATE
TO THE BOROUGH RECORDS RETENTION SCHEDULE**

WHEREAS, sound administrative practices require the borough to keep the records retention schedule updated and current; and

WHEREAS, KP.B 2.52.030(F) allows for the review and quarterly update of the retention schedule; and

WHEREAS, the attached revisions amend several record series throughout the schedule by expanding certain definitions and revising retention dates. The revisions to the schedule create three new series;

NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

SECTION 1. The attached records retention schedule revision request forms are hereby approved.

SECTION 2. This resolution becomes effective immediately upon adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 7TH DAY JANUARY, 2020.

Kelly Cooper, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

Yes:

No:

Absent:

KPB RECORDS RETENTION SCHEDULE REVISION REQUEST

Is request for a New Record Series Number? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (If no, provide record series number you wish to revise)	Record Series Number: <div style="text-align: center; border-bottom: 1px solid black; width: 150px; margin: 0 auto;">CLK-54</div>
Years Retained: <input type="checkbox"/> Office <input type="checkbox"/> PERM Record Center <input type="checkbox"/> PERM Total	Media: <input checked="" type="checkbox"/> (A) Audio Tapes <input type="checkbox"/> (P) Paper <input type="checkbox"/> (V) Video Tapes <input type="checkbox"/> (F) Film <input type="checkbox"/> (M) Microfiche <input type="checkbox"/> (E) Electronic
Department of Record: <div style="text-align: center; border-bottom: 1px solid black; width: 150px; margin: 0 auto;">Clerk's Office</div>	Record Title: <div style="text-align: center; border-bottom: 1px solid black; width: 150px; margin: 0 auto;">Meeting Audio / Video</div>

Description:

Audio/Video recordings for assembly and committee meetings, work sessions, public hearings, and administrative appeals. Also includes audio/video recordings for [BOARD OF ADJUSTMENT (BOA) AND] Board of Equalization (BOE), [MEETINGS AND HEARINGS], task forces, work groups, non-assembly committees and appeal proceedings handled by a hearing officer. For agendas and packets, see CLK-03.

Requested by: Michele Turner, Records Manager Date: 12/17/19

DEPARTMENT DIRECTOR/MANAGER USE ONLY

<input checked="" type="checkbox"/> Approved (Departmental needs are met) <input type="checkbox"/> Denied <input type="checkbox"/> Insufficient Retention <input type="checkbox"/> Excessive Retention	Director/Manager Name: <div style="text-align: center; border-bottom: 1px solid black; width: 150px; margin: 0 auto;">Johni Blankenship</div> <small style="text-align: center;">(Print Name)</small>
---	--

Comments:

Signature: *Johni Blankenship* Date: 12/18/19

BOROUGH ATTORNEY USE ONLY

<input checked="" type="checkbox"/> Approved (Legal needs are met) <input type="checkbox"/> Denied <input type="checkbox"/> Insufficient Retention <input type="checkbox"/> Excessive Retention	Borough Attorney: <div style="text-align: center; border-bottom: 1px solid black; width: 150px; margin: 0 auto;">Sean Kelley, Deputy Borough Attorney</div> <small style="text-align: center;">(Print Name)</small>
--	--

Comments:

Signature: *SK* Date: 12/27/19

RECORDS MANAGEMENT USE ONLY

<input type="checkbox"/> Resolution Number <input type="checkbox"/> Date Approved by Assembly	<input type="checkbox"/> Records Management Software Updated <input type="checkbox"/> Revised Retention Schedule Distributed
--	---

Comments:

Update record series to encompass all meetings and groups.

Records Manager:

Michele Turner

(Print Name)

Signature: _____ Date: _____

KPB RECORDS RETENTION SCHEDULE REVISION REQUEST

Is request for a New Record Series Number? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (If no, provide record series number you wish to revise)	Record Series Number: <div style="text-align: center; border-bottom: 1px solid black; width: 150px; margin: 0 auto;">PLN-16</div>
Years Retained: <input type="checkbox"/> C Office <input type="checkbox"/> 10 years Record Center <input type="checkbox"/> Total	Media: <input type="checkbox"/> (A) Audio Tapes <input checked="" type="checkbox"/> (P) Paper <input type="checkbox"/> (V) Video Tapes <input type="checkbox"/> (F) Film <input type="checkbox"/> (M) Microfiche <input type="checkbox"/> (E) Electronic
Department of Record: <div style="text-align: center; border-bottom: 1px solid black; width: 150px; margin: 0 auto;">Planning Department</div>	Record Title: <div style="text-align: center; border-bottom: 1px solid black; width: 150px; margin: 0 auto;">Comprehensive Plans</div>

Description:
 Description remains the same.
 C = Until superseded or administrative need is met.

Note: See also CLK-39, comprehensive plans are permanently archived with its approved legislation.

Requested by: Michele Turner, Records Manager Date: April 29, 2019

DEPARTMENT DIRECTOR/MANAGER USE ONLY

<input checked="" type="checkbox"/> Approved (Departmental needs are met) <input type="checkbox"/> Denied <input type="checkbox"/> Insufficient Retention <input type="checkbox"/> Excessive Retention	Director/Manager Name: <div style="text-align: center; border-bottom: 1px solid black; width: 150px; margin: 0 auto;">Max Best, Planning Director</div> <small style="text-align: center;">(Print Name)</small>
--	--

Comments:

Signature: *Max Best* Date: 12-17-2019

BOROUGH ATTORNEY USE ONLY

<input checked="" type="checkbox"/> Approved (Legal needs are met) <input type="checkbox"/> Denied <input type="checkbox"/> Insufficient Retention <input type="checkbox"/> Excessive Retention	Borough Attorney: <div style="text-align: center; border-bottom: 1px solid black; width: 150px; margin: 0 auto;">Sean Kelley, Deputy Borough Attorney</div> <small style="text-align: center;">(Print Name)</small>
---	--

Comments:

Signature: *SK* Date: 12/27/2019

RECORDS MANAGEMENT USE ONLY

<input type="checkbox"/> Resolution Number <input type="checkbox"/> Date Approved by Assembly	<input type="checkbox"/> Records Management Software Updated <input type="checkbox"/> Revised Retention Schedule Distributed
--	---

Comments:
 Amend the 'condition' for the department to extend the period of time in office.

Records Manager: <div style="text-align: center; border-bottom: 1px solid black; width: 150px; margin: 0 auto;">Michele Turner</div> <small style="text-align: center;">(Print Name)</small>

Signature: _____ Date: _____

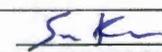
KPB RECORDS RETENTION SCHEDULE REVISION REQUEST

Is request for a New Record Series Number? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (If no, provide record series number you wish to revise)	Record Series Number: <div style="text-align: center; border-bottom: 1px solid black; width: 100px; margin: 0 auto;">SVC-08</div>
Years Retained: <input checked="" type="checkbox"/> C+2 Office <input type="checkbox"/> [2 YEARS] Record Center <input type="checkbox"/> Total	Media: <input type="checkbox"/> (A) Audio Tapes <input checked="" type="checkbox"/> (P) Paper <input type="checkbox"/> (V) Video Tapes <input type="checkbox"/> (F) Film <input type="checkbox"/> (M) Microfiche <input checked="" type="checkbox"/> (E) Electronic
Department of Record: <div style="text-align: center; border-bottom: 1px solid black; width: 100%; margin: 0 auto;">Fire & Emergency Service Areas</div>	Record Title: <div style="text-align: center; border-bottom: 1px solid black; width: 100%; margin: 0 auto;">Fire Inspection / Compliance Files</div>
Description: <div style="border: 1px solid black; padding: 5px; min-height: 100px;"> Description remains the same. </div>	
Requested by: <u>Brooke Dobson, Fire Marshal</u> Date: <u>April 29, 2019</u>	
DEPARTMENT DIRECTOR/MANAGER USE ONLY	
<input checked="" type="checkbox"/> Approved (Departmental needs are met) <input type="checkbox"/> Denied <input type="checkbox"/> Insufficient Retention <input type="checkbox"/> Excessive Retention	Director/Manager Name: <div style="text-align: center; border-bottom: 1px solid black; width: 100%; margin: 0 auto;">Roy Browning, Chief of Emergency Services</div> <small style="text-align: center;">(Print Name)</small>
Comments: <div style="border: 1px solid black; height: 40px;"></div>	
Signature: <u></u> Date: <u>5-1-2019</u>	
BOROUGH ATTORNEY USE ONLY	
<input checked="" type="checkbox"/> Approved (Legal needs are met) <input type="checkbox"/> Denied <input type="checkbox"/> Insufficient Retention <input type="checkbox"/> Excessive Retention	Borough Attorney: <div style="text-align: center; border-bottom: 1px solid black; width: 100%; margin: 0 auto;">Sean Kelley, Assistant Borough Attorney</div> <small style="text-align: center;">(Print Name)</small>
Comments: <div style="border: 1px solid black; height: 40px;"></div>	
Signature: <u></u> Date: <u>12/27/2019</u>	
RECORDS MANAGEMENT USE ONLY	
<input type="checkbox"/> Resolution Number <input type="checkbox"/> Date Approved by Assembly	<input type="checkbox"/> Records Management Software Updated <input type="checkbox"/> Revised Retention Schedule Distributed
Comments: Change the media type of this record series from paper to electronic.	Records Manager: <div style="text-align: center; border-bottom: 1px solid black; width: 100%; margin: 0 auto;">Michele Turner</div> <small style="text-align: center;">(Print Name)</small>
Signature: _____ Date: _____	

KPB RECORDS RETENTION SCHEDULE REVISION REQUEST

Is request for a New Record Series Number? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (If no, provide record series number you wish to revise)	Record Series Number: <p style="text-align: center; font-size: 1.2em;">PER-06</p>
Years Retained: <input type="checkbox"/> [PERM] C Office <input type="checkbox"/> Record Center <input type="checkbox"/> Total	Media: <input type="checkbox"/> (A) Audio Tapes <input checked="" type="checkbox"/> (P) Paper <input type="checkbox"/> (V) Video Tapes <input type="checkbox"/> (F) Film <input type="checkbox"/> (M) Microfiche <input type="checkbox"/> (E) Electronic
Department of Record: <p style="text-align: center; font-size: 1.2em;">Human Resources</p>	Record Title: <p style="text-align: center; font-size: 1.2em;">Job Description</p>
Description: Add to current description: <p style="font-size: 1.1em;">C = until superseded/obsolete or administrative need is met.</p>	
Requested by: <u>Kim Saner, HR Director</u> Date: <u>02/01/19</u>	
DEPARTMENT DIRECTOR/MANAGER USE ONLY	
<input checked="" type="checkbox"/> Approved (Departmental needs are met) <input type="checkbox"/> Denied <input type="checkbox"/> Insufficient Retention <input type="checkbox"/> Excessive Retention	Director/Manager Name: <p style="text-align: center; font-size: 1.2em;">Kim Saner</p> <p style="text-align: center; font-size: 0.8em;">(Print Name)</p>
Comments: 	
Signature: _____ Date: <u>2/1/2019</u>	
BOROUGH ATTORNEY USE ONLY	
<input checked="" type="checkbox"/> Approved (Legal needs are met) <input type="checkbox"/> Denied <input type="checkbox"/> Insufficient Retention <input type="checkbox"/> Excessive Retention	Borough Attorney: <p style="text-align: center; font-size: 1.2em;"><i>Sean Kelly, Deputy Borough Attorney</i></p> <p style="text-align: center; font-size: 0.8em;">(Print Name)</p>
Comments: 	
Signature: <u><i>SK</i></u> Date: <u>12/27/2019</u>	
RECORDS MANAGEMENT USE ONLY	
<input type="checkbox"/> Resolution Number <input type="checkbox"/> Date Approved by Assembly	<input type="checkbox"/> Records Management Software Updated <input type="checkbox"/> Revised Retention Schedule Distributed
Comments: Change retention period to align with the state's local government model 300.1	Records Manager: <p style="text-align: center; font-size: 1.2em;">Michele Turner</p> <p style="text-align: center; font-size: 0.8em;">(Print Name)</p>
Signature: _____ Date: _____	

KPB RECORDS RETENTION SCHEDULE REVISION REQUEST

Is request for a New Record Series Number? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> NO (If no, provide record series number you wish to revise)	Record Series Number: <p style="text-align: center; margin-left: 100px;">PER-04</p>
Years Retained: <input type="checkbox"/> Office PERMANENT <input type="checkbox"/> Record Center <input type="checkbox"/> Total	Media: <input type="checkbox"/> (A) Audio Tapes <input checked="" type="checkbox"/> (P) Paper <input type="checkbox"/> (V) Video Tapes <input type="checkbox"/> (F) Film <input type="checkbox"/> (M) Microfiche <input type="checkbox"/> (E) Electronic
Department of Record: <p style="text-align: center;">Human Resources</p>	Record Title: <p style="text-align: center;">Labor Relations Administration</p>
Description: Collective bargaining agreement and contract amendments, arbitration decisions. Labor negotiation files. [GRIEVANCES.] KBEA Union leave.	
Requested by: <u>Kim Saner, HR Director</u> Date: <u>02/01/19</u>	
DEPARTMENT DIRECTOR/MANAGER USE ONLY	
<input checked="" type="checkbox"/> Approved (Departmental needs are met) <input type="checkbox"/> Denied <input type="checkbox"/> Insufficient Retention <input type="checkbox"/> Excessive Retention	Director/Manager Name: <p style="text-align: center; margin-left: 100px;">Kim Saner</p> <small style="text-align: center;">(Print Name)</small>
Comments:	
Signature: <u></u> Date: <u>2/1/19</u>	
BOROUGH ATTORNEY USE ONLY	
<input checked="" type="checkbox"/> Approved (Legal needs are met) <input type="checkbox"/> Denied <input type="checkbox"/> Insufficient Retention <input type="checkbox"/> Excessive Retention	Borough Attorney: <p style="text-align: center; margin-left: 100px;"><u>Sean Kelley, Deputy Borough Attorney</u></p> <small style="text-align: center;">(Print Name)</small>
Comments:	
Signature: <u></u> Date: <u>12/27/2019</u>	
RECORDS MANAGEMENT USE ONLY	
<input type="checkbox"/> Resolution Number <input type="checkbox"/> Date Approved by Assembly	<input type="checkbox"/> Records Management Software Updated <input type="checkbox"/> Revised Retention Schedule Distributed
Comments: Remove "Grievances" from this record series and create a new series with a five year retention in office and Permanent in records center. This change aligns with the state's local government model 300.1	Records Manager: <p style="text-align: center; margin-left: 100px;">Michele Turner</p> <small style="text-align: center;">(Print Name)</small>
Signature: _____ Date: _____	

KPB RECORDS RETENTION SCHEDULE REVISION REQUEST

Is request for a New Record Series Number? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (If no, provide record series number you wish to revise)	Record Series Number: <p style="text-align: center; margin-left: 100px;">PER-22</p>
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Years Retained: <input checked="" type="checkbox"/> 5 Office <input type="checkbox"/> P Record Center <input type="checkbox"/> P Total	Media: <input type="checkbox"/> (A) Audio Tapes <input checked="" type="checkbox"/> (P) Paper <input type="checkbox"/> (V) Video Tapes <input type="checkbox"/> (F) Film <input type="checkbox"/> (M) Microfiche <input type="checkbox"/> (E) Electronic
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Department of Record: <p style="text-align: center;">Human Resources</p>	Record Title: <p style="text-align: center;">Labor Relations Administration</p>
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Description:
Documents grievances filed by employees; grievance forms, investigative notes, reports, correspondence and related backup. Note: certain information is confidential.

C = resolution and execution of any stipulations.

Requested by: Kim Saner, HR Director Date: 02/01/19

DEPARTMENT DIRECTOR/MANAGER USE ONLY

<input checked="" type="checkbox"/> Approved (Departmental needs are met) <input type="checkbox"/> Denied <input type="checkbox"/> Insufficient Retention <input type="checkbox"/> Excessive Retention	Director/Manager Name: <p style="text-align: center; margin-left: 100px;">Kim Saner</p> <small style="text-align: center;">(Print Name)</small>
---	--

Comments:

Signature: Date: 2/1/19

BOROUGH ATTORNEY USE ONLY

<input checked="" type="checkbox"/> Approved (Legal needs are met) <input type="checkbox"/> Denied <input type="checkbox"/> Insufficient Retention <input type="checkbox"/> Excessive Retention	Borough Attorney: <p style="text-align: center; margin-left: 100px;"><u>Sean Kelley, Deputy Borough Attorney</u></p> <small style="text-align: center;">(Print Name)</small>
--	---

Comments:

Signature: Date: 12/27/2019

RECORDS MANAGEMENT USE ONLY

<input type="checkbox"/> Resolution Number <input type="checkbox"/> Date Approved by Assembly	<input type="checkbox"/> Records Management Software Updated <input type="checkbox"/> Revised Retention Schedule Distributed
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Comments: Remove "Grievances" from PER-04 and create a new series with a five year retention in Office and Permanent in records center. This change aligns with the state's local government model 300.1	Records Manager: <p style="text-align: center; margin-left: 100px;">Michele Turner</p> <small style="text-align: center;">(Print Name)</small>
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KPB RECORDS RETENTION SCHEDULE REVISION REQUEST

Is request for a New Record Series Number? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (If no, provide record series number you wish to revise)	Record Series Number: <div style="text-align: center; border-bottom: 1px solid black; width: 150px; margin: 0 auto;">RDI-06</div>
Years Retained: <input type="checkbox"/> Office <input checked="" type="checkbox"/> Record Center <input checked="" type="checkbox"/> Total	Media: <input type="checkbox"/> (A) Audio Tapes <input checked="" type="checkbox"/> (P) Paper <input type="checkbox"/> (V) Video Tapes <input type="checkbox"/> (F) Film <input type="checkbox"/> (M) Microfiche <input checked="" type="checkbox"/> (E) Electronic
Department of Record: <div style="text-align: center; border-bottom: 1px solid black; width: 150px; margin: 0 auto;">Road Service Area</div>	Record Title: <div style="text-align: center; border-bottom: 1px solid black; width: 150px; margin: 0 auto;">Permit Application Files</div>

Description:
Administration of permit applications (approved and denied): road construction projects, existing road upgrades, and engineered designs; including required attachments: plats, maps, as-built surveys, engineering design/analysis reports.

Note: Category IV roads and roads not constructed as required by KPB 14.06 standards require RSA board approval. See also RDM-03.

C = until administrative need is met.

Requested by: Michele Turner, Records Manager Date: March 19, 2019

DEPARTMENT DIRECTOR/MANAGER USE ONLY

<input checked="" type="checkbox"/> Approved (Departmental needs are met) <input type="checkbox"/> Denied <input type="checkbox"/> Insufficient Retention <input type="checkbox"/> Excessive Retention	Director/Manager Name: <div style="text-align: center; border-bottom: 1px solid black; width: 150px; margin: 0 auto;">Dil Uhlin</div> <small style="text-align: center;">(Print Name)</small>
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Comments:

Signature:  Date: 3-26-19

BOROUGH ATTORNEY USE ONLY

<input checked="" type="checkbox"/> Approved (Legal needs are met) <input type="checkbox"/> Denied <input type="checkbox"/> Insufficient Retention <input type="checkbox"/> Excessive Retention	Borough Attorney: <div style="text-align: center; border-bottom: 1px solid black; width: 150px; margin: 0 auto;"><u>Sean Kelley, Deputy Borough Attorney</u></div> <small style="text-align: center;">(Print Name)</small>
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Comments:

Signature:  Date: 12/27/2019

RECORDS MANAGEMENT USE ONLY

<input type="checkbox"/> Resolution Number <input type="checkbox"/> Date Approved by Assembly	<input type="checkbox"/> Records Management Software Updated <input type="checkbox"/> Revised Retention Schedule Distributed
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Comments: Current schedule does not include series for administrating permit applications. Create new series for RDI.	Records Manager: <div style="text-align: center; border-bottom: 1px solid black; width: 150px; margin: 0 auto;">Michele Turner</div> <small style="text-align: center;">(Print Name)</small>
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Signature: _____ 174 Date: _____

Introduced by: Mayor
Date: 01/07/20
Hearing: 01/21/20
Action:
Vote:

**KENAI PENINSULA BOROUGH
ORDINANCE 2019-19-22**

**AN ORDINANCE REDIRECTING AND APPROPRIATING THE REMAINING
BALANCE OF FUNDS FROM THE COMPLETION OF THE U.S. ARMY CORPS OF
ENGINEERS SALMON CREEK SECTION 205 PROJECT AND UNUSED GRANT
FUNDS FROM THE STATE OF ALASKA GRANT NUMBER 15-DC-090 FOR
SEWARD-BEAR CREEK FLOOD SERVICE AREA FLOOD MITIGATION PROJECTS**

WHEREAS, the Seward-Bear Creek Flood Service Area (“SBCFSA”) provides flood planning, protection, and mitigation services for flooding within the service area; and

WHEREAS, ordinance 2014-19-17 accepted and appropriated capital grant 15-DC-090 in the amount of \$500,000 from the State of Alaska on behalf of the SBCFSA for flood mitigation projects (“state grant”); and

WHEREAS, mitigation projects were determined based upon recommendations from the 2013 SBCFSA Local Hazard Mitigation Plan and submitted to the mayor for approval; and

WHEREAS, state grant funds in the amount of \$495,049.50 and SBCFSA funds in the amount of \$114,069.36 provided a match for the U.S. Army Corps of Engineers (“USACE”) to complete the Salmon Creek Section 205 flood risk management project; and

WHEREAS, the Salmon Creek project was completed under budget and the USACE will refund the remaining \$68,506.65 in grant funds and \$114,069.36 in service area funds to the borough; and

WHEREAS, the SBCFSA board of directors reviewed and identified potential projects during the November 18, 2019 work session; and

WHEREAS, at the regular meeting of December 16, 2019, the SBCFSA board recommended these funds be reappropriated for the following mitigation projects;

State Grant 15-DC-090 Contractual Services 271.21212.15090.43011:
Sawmill Creek Sediment Management
Seward Mapped Flood Data Area (SMFDA) Flood Risk Analyses
Establish Ground Control Points in Areas of Interest

SBCFSA Contractual Services 259.21212.00000.43011:
Japanese Creek Long Term Mitigation
Box Canyon Creek Project Planning
Sediment Management Planning
Annual Channel & Embankment Maintenance
Second Avenue Culvert Optimization

NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

SECTION 1. That funds in the amount of \$114,069.36 are appropriated from the Seward-Bear Creek Flood Service Area Fund fund balance to account number 259.21212.00000.43011.

SECTION 2. That State of Alaska 15-DC-090 grant funds in the amount of \$68,506.65 are deobligated and redirected to account number 271.21212.15090.43011.

SECTION 3. That the grant funds appropriated are of a project length nature and as such do not lapse at the end of any particular fiscal year.

SECTION 4. That this ordinance shall take effect immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS * DAY OF *, 2020.

Kelly Cooper, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

Yes:

No:

Absent:

Kenai Peninsula Borough Seward-Bear Creek Flood Service Area

MEMORANDUM

To: Kelly Cooper, Assembly President
Members, Kenai Peninsula Borough Assembly

Thru: Charlie Pierce, Mayor *CP*
Brandi Harbaugh, Finance Director *BH*
John Hedges, Purchasing & Contracting Director *JH*
Brenda Ahlberg, Community & Fiscal Projects Manager *BA*
Dan Nelson, Emergency Manager *DN*

From: Stephanie Presley, SBCFSA Program Lead *SP*

Date: December 26, 2019

Subject: Ordinance 2019-19-22, Redirecting and Appropriating the Remaining Balance of Funds from the Completion of the U.S. Army Corps of Engineers Salmon Creek Section 205 Project and Unused Grant Funds from the State of Alaska Grant Number 15-DC-090 for Seward Bear Creek Flood Service Area Flood Mitigation Projects (Mayor)

Through Ordinance 2014-19-17, the borough accepted grant 15-DC-090 from the State of Alaska on behalf of the Seward-Bear Creek Flood Service Area (SBCFSA) for flood mitigation projects in the amount of \$500,000. Selected mitigation projects were determined based upon recommendations from the SBCFSA 2013 Local Hazard Mitigation Plan and submitted to the mayor for approval.

Mitigation projects completed with the state grant included matching funds for the U.S. Army Corps of Engineers (USACE) Continuing Authorities Program Section 205 for the Salmon Creek flood risk management project. The Salmon Creek revetment and recreational area have been constructed and the one-year inspection was completed in November. The USACE will close out the project under budget and provide the borough with remaining funds of approximately \$165,000.

Matching funds of \$495,049.50 for the USACE Salmon Creek project were appropriated from the 15-DC-090 state grant and \$114,069.36 from the SBCFSA fund balance. We are requesting that remaining grants funds of

December 26, 2019

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Re: O2019-19- 22

\$68,506.65 and the previously appropriated fund balance of \$114,069.36 be redirected and reappropriated for additional SBCFSA mitigation projects and associated administrative service fees.

At the November 18, 2019 work session, the SBCFSA board reviewed and identified flood mitigation projects that it recommends be completed using these funds. At the December 16, 2019 regular meeting, the SBCFSA board recommended the following flood mitigation projects:

15-DC-090 Grant Funds – Account number 271.21212.15090.43011
<u>Sawmill Creek Sediment Management</u> <i>Removal of streambed material from upstream and downstream of Nash Road bridge, as described in the SBCFSA Sawmill Creek Sediment Management Plan.</i>
<u>Seward Mapped Flood Data Area (SMFDA) Flood Risk Analyses</u> <i>Following delivery of LiDAR data (expected December 30, 2019), contractor analyses of three areas of interest (Old Mill, Old Exit Glacier, and Nashwoods subdivisions) and delivery of expected flow paths, base flood depths and updated SMFDA maps.</i>
<u>Establish Ground Control Points in Areas of Interest</u> <i>Installation and survey of benchmarks in selected areas to establish ground control for future imagery and LiDAR data collection.</i>

The 15-DC-090 grant performance period ends June 30, 2020. Stephanie Presley, SBCFSA Program Lead, will provide grant oversight and the Kenai Peninsula Borough Capital Projects Department shall provide project completion oversight.

The \$114,069.36 from fund balance that is appropriated to the SBCFSA contractual services account is recommended to be used for projects listed in the SBCFSA Mitigation Action Plan Projects Priority List. Any funds not expended before June 30, 2020 will roll back into the SBCFSA fund balance.

December 26, 2019

Page -3-

Re: O2019-19- 22

SBCFSA Contractual Services – Account number 259.21212.00000.43011

Japanese Creek Long Term Mitigation

Japanese Creek Sediment Management Planning, University of Alaska and State Department of Natural Resources permitting fees.

Box Canyon Creek Project Planning

Cook Inlet Region, Inc. and US Department of Agriculture National Forest Service site control agreements and permitting fees.

Sediment Management Planning

Survey and/or design plans for strategic streambed removal plans.

Annual Channel & Embankment Maintenance

Maintenance of areas protecting public and private infrastructure and property.

Second Avenue Culvert Optimization

Matching funds for installation of new culvert under Second Ave to Seward Lagoon. Partnership project with City of Seward, U.S. Fish & Wildlife Service and other agencies.

**FINANCE DEPARTMENT
ACCOUNT / FUNDS VERIFIED**

Acct. No. 259.27910

Amount: \$ 114,069.36

Acct. No. 271.21212.15090.49999

Amount: \$ 68,332.63

Acct. No. 271.21212.15090.61990

Amount: \$ 174.02

By: PP

Date: 12/.18/2019

Introduced by: Mayor
Date: 01/07/20
Hearing: 01/21/20
Action:
Vote:

**KENAI PENINSULA BOROUGH
ORDINANCE 2019-19-23**

**AN ORDINANCE APPROPRIATING FUNDS TO PROVIDE FOR A FACILITY
MANAGEMENT STRATEGIC PLAN**

WHEREAS, since its establishment in 1964, the steady growth of the Kenai Peninsula Borough (“KPB”) has accumulated over 148 facilities which have a total value of over one billion dollars; and

WHEREAS, KPB currently has no centralized facility management; and

WHEREAS, in 2019 a facility management committee was formed to identify facility management needs, strategies, and priorities; and

WHEREAS, the committee identified that significant benefits would result from refining the KPB’s scope and approach to facility management; and

WHEREAS, benefits identified include financial and operating efficiencies, maximizing use of assets, energy efficiency gains, regulatory compliance, health and safety, and responsiveness to facility needs; and

WHEREAS, further information gathering is necessary to define prudent actions; and

WHEREAS, the committee recommends creating a project which would include engagement of a third-party facility management consulting firm to investigate KPB’s systems and develop strategic recommendations consistent with best management practices tailored to the borough and its operating agencies;

NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

SECTION 1. That \$220,000 is appropriated from the General Fund fund balance to projects account 100.94910.FCLTY.49999 for facility management strategic planning and associated costs.

SECTION 2. That this is a multi-year project and funds shall not lapse.

SECTION 3. That this ordinance shall take effect immediately upon its enactment.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS * DAY
OF *, 2020.**

Kelly Cooper, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

Yes:

No:

Absent:

Kenai Peninsula Borough

Planning Department – Land Management Division

MEMORANDUM

TO: Kelly Cooper, Assembly President
Members, Kenai Peninsula Borough Assembly

THRU: Charlie Pierce, Mayor *CP*
James Baisden, Chief of Staff *JCB*
Max Best, Planning Director *MB*

FROM: John Hedges, Purchasing and Contracting Director *JH*
Scott Griebel, Maintenance Director *SG*
Ben Hanson, IT Director *BH*
Sovala Kisenia, Claims Manager *SK*
Marcus A. Mueller, Land Management Officer *MAM*

DATE: December 26, 2019

RE: Ordinance 2019-19-23, Appropriating Funds to Provide for a Facility Management Strategic Plan (Mayor)

The borough currently handles facilities management on an as-needed basis by the department or agency that is utilizing the borough's capital assets. This procedure appears to have been established early-on in the borough's history when infrastructure needs were still small and a less coordinated approach was adequate. Given the substantial growth of borough infrastructure over the years, this approach has led to numerous inefficiencies and inconsistent polices throughout the borough's organization.

In 2019 a committee consisting of borough administrative employees was formed to address the increasing issues associated with the lack of facility management coordination. Since early Spring 2019, the Facilities Management Committee has met approximately twice a month to review and discuss solutions to ongoing issues. The goal of this review has been to identify strategies and priorities in facility management to address issues throughout the borough and its operating agencies. These issues involve, but are not necessarily limited to, the following areas of concern:

- Life safety assessment, compliance and monitoring
- Preventive maintenance
- Capital improvement planning
- Major and minor maintenance
- Energy consumption

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January 7, 2020
KPB Assembly
RE: Ord 2019-19-23

- Operational efficiencies & standardization
- Asset inventories & operating agreements

It is the recommendation of this committee that, due to the size and complexity of this issue, a project be created to identify and apply best management practices for borough facility needs. This project would solicit a third-party facilities management consulting organization to inventory, evaluate, and recommend organizational and information systems structures to the Facilities Management Committee.

In addition, the use of a third-party consultant may bring a broader experienced based perspective to our efforts. Once approved by the committee a detailed report will be generated that will, at a minimum, include an organizational structure, a capital asset inventory, and recommendations on best management practices to address areas of concern such as the ones listed above. This report will then be used by the Facilities Management Committee to make recommendations for implementing these best management practices. The goal of this effort is improved efficiency in all aspects of building ownership through a collaborative approach within an organization structure that is the right fit for the borough and its agencies as we move forward.

Your consideration of this ordinance is appreciated.

FINANCE DEPARTMENT FUNDS VERIFIED	
Acct. No:	<u>100.27900</u>
Amount:	<u>\$ 220,000.00</u>
By:	<u>PP</u>
By:	<u>BT</u> Date: <u>12/19/2019</u>

Introduced by: Mayor
Date: 01/07/20
Hearing: 01/21/20
Action:
Vote:

**KENAI PENINSULA BOROUGH
ORDINANCE 2019-19-24**

**AN ORDINANCE APPROPRIATING ADDITIONAL FUNDS FOR THE PURPOSE OF
PURCHASING ENVIRONMENTAL, HEALTH, AND SAFETY MANAGEMENT
SOFTWARE**

- WHEREAS,** The Office of Risk Management (“Risk”) administers the health, safety, and environmental compliance programs for both the Kenai Peninsula Borough (“KPB”) and Kenai Peninsula Borough School District (“KPBSD”) using a paper filing system and, more recently, spreadsheets; and
- WHEREAS,** this method of program management remains largely unchanged since the Office of Risk Management was established in 1989; and
- WHEREAS,** in an effort to identify departmental improvements, EHS Management software was quickly recognized as an effective tool to improve the Risk Department’s overall ability to meet its mission statement and departmental goals.; and
- WHEREAS,** the process of identifying and selecting an ideal EHS Management software provider extended beyond the end of fiscal year 2019 allowing the funds identified for this purpose to lapse and become unavailable; and
- WHEREAS,** annual software maintenance and projected change order amounts were budgeted in the FY2020 budget cycle reducing the additional project funds to be reappropriated;

**NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI
PENINSULA BOROUGH:**

SECTION 1. That funds in the amount of \$20,000 are appropriated from the Insurance and Litigation Fund fund balance 700.27910 to be transferred to account 700.11234.48XXX. to purchase EHS Management software.

SECTION 4. This ordinance takes effect immediately upon enactment.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS * DAY
OF *, 2020.**

Kelly Cooper, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

Yes:

No:

Absent:

Kenai Peninsula Borough
Kenai Peninsula Borough School District
Office of Risk Management

MEMORANDUM

TO: Kelly Cooper, Assembly President
Members, Kenai Peninsula Borough Assembly

THRU: Charlie Pierce, Mayor *CP*
Kim Saner, Human Resources Director *KS*

FROM: Sovala Kisenia, Claims Manager *SK*
John Hedges, Purchasing and Contracting Director *JH*
Brandi Harbaugh, Finance Director *BH*

DATE: December 26, 2019

RE: Ordinance 2019-19-24, Appropriating Additional Funds for the Purpose of Purchasing Environmental, Health, and Safety (EHS) Management Software (Mayor)

The Office of Risk Management ("Risk") administers the health, safety, and environmental compliance programs for both the Kenai Peninsula Borough ("KPB") and Kenai Peninsula Borough School District ("KPBSD") using a paper filing system and, more recently, spreadsheets. This method of program management remains largely unchanged since the Division of Risk Management was established in 1989.

Given Risk's significant expansion of responsibilities throughout the years, our department began to identify areas where departmental improvements could be made. Environmental, health and safety management ("EHS Management") software quickly surfaced as the most significant and effective means to drastically improve the department's overall ability to meet our mission statement.

By January 2019, we began the process of identifying and selecting an ideal EHS Management software provider intending to use funds available in FY2019. Unfortunately, the RFP process carried into FY2020 and those funds lapsed at the end of the fiscal year, making them unavailable. Fortunately, In anticipation of the software being fully implemented by the start of FY2020, annual maintenance fees were budgeted for the EHS Management software, leaving only additional implementation fees to apportion.

Page -2-
December 26, 2019
Re: O2019-19- 24

Therefore, Risk is requesting that additional funds be appropriated from the Insurance and Litigation Fund fund balance in the amount of \$20,000.00 to cover the additional cost of implementation. The funding and acquisition of this EHS software has been reviewed and supported by the KPB, KPBSD, and the Risk Committee.

Your consideration of this ordinance is appreciated.

FINANCE DEPARTMENT FUNDS VERIFIED	
Acct. No.	<u>700.27910</u>
Amount	<u>\$ 20,000.00</u>
By: <u>PP</u>	Date: <u>12/26/2019</u>

Introduced by: Mayor
Date: 01/07/20
Hearing: 01/21/20
Action:
Vote:

**KENAI PENINSULA BOROUGH
ORDINANCE 2019-19-25**

**AN ORDINANCE APPROPRIATING INSURANCE PROCEEDS AND LOCAL FUNDS
FOR THE PURPOSE OF PURCHASING A REPLACEMENT FIRE TRUCK DEEMED
A TOTAL LOSS**

- WHEREAS,** in November 2017, Central Emergency Service Area (“CES”) fire truck #914 was involved in an accident while responding to an emergency; and
- WHEREAS,** a claim for the damaged fire truck was opened by the borough with Alaska Municipal League-Joint Insurance Association and the fire truck was determined to be a total loss; and
- WHEREAS,** initial insurance payments totaling \$266,956.38 were received by the Borough after accounting for the borough deductibles and applicable costs, however the policy has replacement cost coverage where the damaged fire truck can be replaced with a new fire truck less the deductibles and salvage value; and
- WHEREAS,** the reinsurer valued the replacement truck to be \$655,683.00 based on a quote from Hughes Fire Equipment Inc.; and
- WHEREAS,** the reinsurer will provide a supplemental payment of \$349,626.62 once the replacement truck has been ordered; and
- WHEREAS,** CES is requesting local funds of \$133,417 and insurance proceeds of \$266,956.38 be appropriated from the CES fund balance and the acceptance and appropriation of committed insurance proceeds in the amount of \$349,626.62 to be received once the truck is ordered, to cover the total replacement cost of \$750,000.00 covering replacement costs, administrative service fees and any change orders to the purchase; and
- WHEREAS,** in order to ensure that the funds necessary to award the contract are available an appropriation will need to be made to offset the difference in the project cost; and
- WHEREAS,** at its meeting on November 21, 2019, the Central Emergency Service Area Board unanimously recommended approval of the project;

NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

SECTION 1. That funds in the amount of \$400,373.38 are appropriated from the Central Emergency Service Area fund balance 443.27910 to be transferred to project account 443.51610.20FTK.49999.

SECTION 2. That insurance proceeds in the amount of \$349,626.62 are accepted and appropriated to project account 443.51610.20FTK.49999.

SECTION 3. That the appropriations made in this ordinance are of a project length nature and as such do not lapse at the end of any particular fiscal year.

SECTION 4. This ordinance takes effect immediately upon enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS * DAY OF *, 2020.

Kelly Cooper, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

Yes:

No:

Absent:

Kenai Peninsula Borough

Central Emergency Services

MEMORANDUM

TO: Kelly Cooper, Assembly President
Members, Kenai Peninsula Borough Assembly

THRU: Charlie Pierce, Mayor *charlie pierce*

FROM: Roy Browning, CES Chief *RCB*
Brandi Harbaugh, Finance Director *BH*
John Hedges, Purchasing & Contracting Director *JH*
Sovala Kisenia, Claims Manager *SK*

DATE: December 26, 2019

RE: Ordinance 2019-19-25, Appropriating Insurance Proceeds and Local Funds for the Purpose of Purchasing a Replacement Fire Truck Deemed a Total Loss (Mayor)

In November 2017, Central Emergency Service Area ("CES") fire truck #914 was involved in an accident while responding to an emergency. A claim for the damaged fire truck was opened by the borough with Alaska Municipal League-Joint Insurance Association. In the claim it was determined that the fire truck was a total loss.

An initial insurance payment of \$266,956.38, which had been reduced by the borough deductible and applicable costs, was received by the Borough. However, the policy has replacement cost coverage where the damaged fire truck can be replaced with a new fire truck less member deductible, vehicle deductible, and salvage costs. The reinsurer valued the replacement truck to be \$655,683.00 based on a quote from Hughes Fire Equipment Inc. The reinsurer will provide a supplemental payment of \$349,626.62 once the truck has been ordered.

CES is requesting funds be appropriated from the CES fund balance in the amount of \$133,417 and insurance proceeds in the amount of \$616,583.00, including proceeds received and to be received. This is to cover the total replacement cost of \$750,000 including replacement costs, administrative service fees and any change orders to the purchase. The CES Service Area Board at its regular meeting on November 21, 2019 unanimously supported the funding and purchase of the replacement fire truck.

Your consideration of this ordinance is appreciated.

FINANCE DEPARTMENT FUNDS VERIFIED	
Acct. No:	<u>443.27910</u>
Amount:	<u>\$ 400,373.38</u>
Acct. No:	<u>443.51610.20FTK.49999</u>
Amount:	<u>\$ 349,626.62</u>
By: <i>PP</i>	Date: <u>12/26/2019</u>

Introduced by: Mayor
Date: 01/07/20
Hearing: 01/21/20
Action:
Vote:

**KENAI PENINSULA BOROUGH
ORDINANCE 2019-19-26**

**APPROPRIATING ADDITIONAL FUNDS TO THE LEGAL DEPARTMENT FOR
COSTS AND FEES FOR OUTSIDE COUNSEL TO CONTINUE REPRESENTING THE
KENAI PENINSULA BOROUGH IN THE APPLICATION OF THE ALASKA GASLINE
DEVELOPMENT CORPORATION FILED WITH THE FEDERAL ENERGY
REGULATORY COMMISSION**

WHEREAS, in resolution 2018-032 the assembly authorized the Kenai Peninsula Borough (“borough”) to intervene in the matter of the Application of the Alaska Gasline Development Corporation (“AGDC”), Docket No. CP17-178-000, before the Federal Energy Regulatory Commission (“FERC”) regarding the Alaska Liquefied Natural Gas Project; and

WHEREAS, the borough contracted with the law firm of Norton Rose Fulbright US LLP (“Norton Rose”) to represent it in this FERC matter; and

WHEREAS, since then Norton Rose successfully moved to intervene out of time on August 10, 2018, in the FERC action and filed numerous comments on behalf of the borough, and tracked the proceedings for the borough; and

WHEREAS, FERC issued a Draft Environmental Impact Statement (“DEIS”) on June 28, 2019, supporting locating the LNG plant and marine terminal in Nikiski; and

WHEREAS, both the City of Valdez and the Matanuska-Susitna Borough have urged FERC to modify the DEIS to designate the site for the LNG terminal in their respective jurisdictions instead of Nikiski; and

WHEREAS, it is anticipated that the borough will need to continue to participate and file additional documents with FERC to support its position that the facilities should be located in Nikiski; and

WHEREAS, this is a specialized area of law and the continuing services and expertise of Norton Rose will be needed to adequately represent the borough’s interest in this matter; and

WHEREAS, it is estimated that at this time additional funds of at least \$150,000.00 will be needed to pay legal services and costs incurred by outside counsel on behalf of the borough in this matter;

NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

SECTION 1. The sum of \$150,000 is hereby appropriated from the General Fund’s fund balance to account number 100.11310.19FRC.49999 for expenses associated with using outside counsel to represent the borough in the AGDC’s application to FERC.

SECTION 2. That this ordinance shall become retroactively effective on the 1st day of October, 2019.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS * DAY OF *, 2020.

Kelly Cooper, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

Yes:

No:

Absent:

Kenai Peninsula Borough Legal Department

MEMORANDUM

TO: Kelly Cooper, Assembly President
Members, Kenai Peninsula Borough Assembly

THRU: Charlie Pierce, Mayor *CP*

FROM: Colette Thompson, Borough Attorney *CT*

DATE: December 26, 2019

RE: Ordinance 2019-19-26, Appropriating Additional Funds to the Legal Department for the Costs and Fees for Outside Counsel to Continue Representing the Kenai Peninsula Borough in the Application of the Alaska Gasline Development Corporation Filed with the Federal Energy Regulatory Commission (Mayor)

Following the assembly's approval of Resolution 2018-032, authorizing the borough to intervene in the application of the Alaska Gasline Development Corporation before the Federal Energy Regulatory Commission ("FERC"), the borough retained the services of Norton Rose Fulbright US LLP ("Norton Rose") to represent it in this matter. Since then, the firm has successfully moved to intervene in the case, tracked filings with FERC, and filed numerous other documents with FERC supporting the borough's interest in locating the LNG facility and marine terminal in Nikiski.

Both the Matanuska-Susitna Borough and the City of Valdez have argued that the LNG terminal should be located in their respective jurisdictions instead of Nikiski. It is anticipated that the borough's interest would best be protected by continuing to participate in the process and retaining Norton Rose to advise and represent it.

It is difficult to accurately predict the extent the borough will continue to be involved going forward but we estimate that additional fees and costs will total at least \$150,000.00. This ordinance would appropriate that amount for some recent costs and legal services provided and preliminarily estimated future services.

As Norton Rose's fees recently exceeded the amount previously appropriated for this project, it is requested that the assembly make the effective date of this ordinance retroactive to October 1, 2019.

FINANCE DEPARTMENT ACCOUNT / FUNDS VERIFIED	
Acct. No.	<u>100.27910</u>
Amount:	<u>\$ 150,000.00</u>
By: <i>PP</i>	Date: <u>12/26/2019</u>
By: <i>BH</i>	

Introduced by: Johnson
Date: 01/07/20
Hearing: 02/04/20
Action:
Vote:

**KENAI PENINSULA BOROUGH
ORDINANCE 2020-01**

**AN ORDINANCE AMENDING KPB 4.30.010 AND KPB 4.30.050 REGARDING
CANDIDATE QUALIFICATION AND REVIEW OF CANDIDATE QUALIFICATIONS
FOR BOROUGH ELECTIONS**

WHEREAS, state statutes provide that the local governing body establish the procedures governing local elections and qualifications of candidates; and

WHEREAS, in most state and municipal elections, candidates for public office must meet a durational residency requirement as part of the qualifications to run for office; and

WHEREAS, the requirements are necessary to permit exposure of the candidate to his or her prospective constituents; and

WHEREAS, the requirements are also needed to ensure that candidates are familiar with the issues and diverse character of the area the candidate desires to serve; and

WHEREAS, one-year residency requirements afford greater voter knowledge of candidates and greater candidate knowledge of the needs of the consistency while also protecting constitutional rights of both the voter and the candidate; and

WHEREAS, a one-year residency requirement will also serve to prevent individuals from another area moving to a locale for personal gain immediately prior to filing for public office; and

WHEREAS, current Alaska case law indicates a one-year durational residency requirement is permissible; and

WHEREAS, it is generally appropriate for a durational residency requirement for a candidate to be longer than residency requirements for voters; and

WHEREAS, borough code is currently silent on defining residency and should also be updated to clarify the procedure followed by the borough clerk in the event of a pre-election challenge to a candidate's qualifications;

NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

SECTION 1. That KPB 4.30.010 is hereby amended as follows:

4.30.010. Candidate qualifications.

- A. A candidate for borough mayor must be a qualified voter of the State of Alaska and a resident of the Kenai Peninsula Borough for [180 DAYS] one year immediately preceding filing for office. A person who has served as mayor for two consecutive full terms may not be reelected to that office until 180 days has intervened.

- B. A candidate for borough assembly must be a qualified voter of the State of Alaska and a resident of the district from which the candidate seeks election for [AT LEAST 180 DAYS] one year immediately preceding filing for office. As provided in KPB 22.30.030(A), a person who has served on the assembly for two consecutive full terms may not be reelected to that office until 180 days have intervened. A full term of office means the regular term of office for assembly and, except as provided in KPB 22.30.030(B), does not include portions of a term served by appointment or election to the remainder of an unexpired term vacated by another person or to a less than 3-year term resulting from assembly redistricting.

- C. A candidate for school board must be a qualified voter of the State of Alaska and a resident of the district from which the candidate seeks election for [180 DAYS] one year immediately preceding filing for office.

- D. A candidate for a service area board must be a qualified voter of the State of Alaska and a resident of the service area for [AT LEAST 180 DAYS] one year immediately preceding filing for office.

- E. A candidate for any of the above offices shall declare in writing all absences from the State of Alaska of over 45 days during the 12 months prior to filing for office along with the reason for the absence.

SECTION 2. That KPB 4.30.050 is hereby amended as follows:

4.30.050. Review of candidate qualifications.

[THE CLERK SHALL DETERMINE WHETHER EACH CANDIDATE FOR BOROUGH OFFICE IS QUALIFIED AS PROVIDED BY LAW. AT ANY TIME BEFORE THE ELECTION THE CLERK MAY DISQUALIFY ANY CANDIDATE WHOM THE CLERK FINDS IS NOT QUALIFIED AND IMMEDIATELY NOTIFY THAT CANDIDATE BY CERTIFIED MAIL. A

CANDIDATE WHO IS DISQUALIFIED MAY REQUEST A HEARING BEFORE THE CLERK WITHIN FIVE DAYS OF RECEIVING THE NOTICE. THE HEARING SHALL BE HELD NO LATER THAN FIVE DAYS AFTER THE REQUEST UNLESS THE CANDIDATE AGREES IN WRITING TO A LATER DATE.]

A. In determining residence within the borough, district, or service area for the purposes of this chapter, the clerk shall apply the following rules:

1. A person establishes residence within the borough, district or service area by:

(A) actual physical presence at a specific location within the district or service area; and

(B) maintaining a habitation at the specific location;

2. A person may maintain a place of residence at a specific location within the borough, district or service area while away from the location for purposes of employment, education, military service, medical treatment or vacation if the person does not establish residency at another location; and

3. A qualified voter loses residence by voting in another district or service area or in another state's election.

B. The clerk shall determine whether each candidate is qualified as provided by law. At any time before the election the clerk may disqualify any candidate whom the clerk finds is not qualified. A candidate who is disqualified may request a hearing before the clerk. The hearing shall be held no later than 5 business days after the request unless the candidate agrees in writing to a later date.

C. Any person may question the eligibility of a candidate who has filed a declaration of candidacy by filing a complaint with the clerk. A complaint regarding the eligibility of a candidate must be received by the clerk not later than the close of business on the 10th calendar day after the filing deadline for the office for which the candidate seeks election.

D. The complaint must be in writing and include the name, mailing address, contact phone number, and signature of the person making the complaint, and a statement in 200 words or less specifying the grounds for the complaint, described

in particular, on which the candidate's eligibility is being questioned.

E. The clerk will review only those issues cited in the complaint related to candidate qualifications established by this chapter.

F. Upon receipt of a complaint, the clerk will review any evidence relevant to the issues identified in the complaint which is in the custody of the municipal clerk's office including evidence provided with the complaint, the candidate's registration record, declaration of candidacy, and, in the discretion of the clerk, any other public record. Following review of all relevant evidence in the case, and within 20 days of receiving the complaint, the clerk will determine whether a preponderance of evidence supports or does not support the eligibility of the candidate. The process for issuing a final determination will be as follows:

1. The clerk will send notification in writing to the candidate whose eligibility is being questioned that a complaint has been received. The notification will include a copy of the complaint, supporting relevant evidence, a statement as to whether a preponderance of evidence reviewed as of that notice supports or does not support the eligibility of the candidate, and a request that the candidate provide a sworn response statement along with any relevant supporting evidence.

2. The clerk must also notify the challenger that all relevant evidence must be submitted within 7 calendar days of the date of the clerk's notice to the candidate that a complaint has been filed. If the clerk receives additional evidence during this 7-day period, such evidence must be provided to the candidate with an opportunity to respond. Absent extraordinary circumstances, the clerk shall not consider evidence received after the challenger's deadline to submit evidence.

3. The candidate's response statement and any supporting evidence must be received within 10 calendar days of the date of the clerk's notice to the candidate that a complaint has been filed. Absent extraordinary circumstances, the clerk shall not

consider evidence received after the candidate's deadline to submit evidence.

4. For purposes of this section, "extraordinary circumstances" must be specified in writing, documenting a serious circumstance or event beyond the control of the individual providing the late evidence.

5. Following review of all relevant evidence in the case, and within 20 days of receiving the complaint, the clerk will issue a final determination based on a preponderance of evidence standard for review

6. A final determination must be issued in writing within 20 days of the clerk receiving the complaint.

G. The clerk must send the final written decision to the person making the complaint and to the candidate. The clerk's decision shall be sent by certified mail and by electronic mail (email), if an email address is known. The determination of the borough clerk constitutes a final administrative decision. An appeal of the clerk's decision shall be filed with the State of Alaska Superior Court at Kenai, Alaska in conformance with the Rules of Appellate Procedure of the State of Alaska, Part VI.

SECTION 3. That KPB 22.30.030(A) is hereby amended as follows:

22.30.030. Terms of office.

A. The full term of office for assembly members is 3 years. Consistent with KPB 4.30.010(B), no person who has completed two full terms on the assembly in a continuous period of service may serve another term or portion of a term until a period of 180 days has passed since the end of his second full term of office. A full term of office means the regular term of office for assembly and, except as provided in paragraph B of this section, does not include portions of a term served by appointment or election to the remainder of an unexpired term vacated by another person or to a less than 3-year term resulting from assembly redistricting.

SECTION 4. That this ordinance takes effect immediately upon its enactment.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS * DAY
OF *, 2020.**

Kelly Cooper, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

Yes:

No:

Absent:

Kenai Peninsula Borough Assembly

MEMORANDUM

TO: Kelly Cooper, Assembly President
Members, Kenai Peninsula Borough Assembly

FROM: Brent Johnson, Assembly Member BJ

DATE: December 26, 2019

RE: Ordinance 2020-01, Amending KPB 4.30.010 and KPB 4.30.050 regarding Candidate Qualification and Review of Candidate Qualifications for Borough Elections (Johnson)

The recent election brought to my attention deficiencies in Kenai Peninsula Borough Code regarding candidate qualifications in our local elections.

First, this borough has a candidate durational residency requirement of only 180 days compared to one year requirements in the boroughs of Matanuska-Susitna, Fairbanks North Star, Haines, Petersburg, Kodiak Island and Ketchikan Gateway, and the City of Homer, just to name a few other somewhat comparable Alaska municipalities. A longer durational residency requirement serves important local interests. Durational residency requirements permit exposure of the candidate to his or her prospective constituents and ensure that candidates are familiar with the issues and diverse character of the area the candidate desires to serve. One-year residency requirements afford greater voter knowledge of candidates and greater candidate knowledge of the needs of the constituency while also protecting constitutional rights of both the voter and the candidate.

In addition, borough code does not provide guidance on what "resident of" means for local borough and school district elected positions. This proposed amendment to KPB 4.30.050 mirrors state law and provides a clearer process for the clerk to follow in reaching a decision when a candidate's qualifications are challenged. This ordinance defines residence as actual physical presence and habitation at a specific location in the borough. It also provides a more defined procedure for the public to challenge a candidate's qualifications to run for local office and for the clerk to follow in reaching a decision on the matter.

Candidates for local office should be familiar with the issues and challenges facing their constituents and should not be able to move to an area right before an election for personal gain.

Your consideration is appreciated.

Introduced by: Cooper at the Request
of the Borough Clerk
Date: 01/07/20
Hearing: 02/04/20
Action:
Vote:

**KENAI PENINSULA BOROUGH
ORDINANCE 2020-02**

**AN ORDINANCE AMENDING KPB 2.54.060 REGARDING RESPONSE TO
REQUESTS FOR ACCESS TO PUBLIC RECORDS TO INCREASE TIME LIMITS
FOR RESPONSE**

- WHEREAS**, current code requires the borough clerk or designee to notify the requestor that the requested record is exempt, cannot be located, or that the request is insufficient to describe the record sought within three days of the receiving the request; and
- WHEREAS**, the three day requirement is often not enough time for a record request to be processed and researched by the responding department or service area; and
- WHEREAS**, State of Alaska regulations provides for a 10 day time limit for responding to public record requests; and
- WHEREAS**, similarly Matanuska Susitna Borough code provides for response within 10 days of the request; and
- WHEREAS**, increasing the time for response will help alleviate the immediate administrative burden for borough departments and service areas; and
- WHEREAS**, the number of record requests processed by the borough continues to increase annually; and
- WHEREAS**, the process for internally searching paper records as well as electronic records is time intensive and involves multiple departments' personnel time; and
- WHEREAS**, increasing the time limit for response will not suppress public access to records or otherwise change the record request process;

**NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI
PENINSULA BOROUGH:**

SECTION 1. That KPB 2.54.060 is hereby amended as follows:

2.54.060. Response to request for access to public records.

...

B. Request for Records Exempt from Disclosure.

...

2. If the information requested is determined to be exempt from disclosure, the person requesting the information shall be advised in writing, stating the applicable law or rule of exemption, within [3] 10 working days of receiving the request; such writing shall be signed by the Borough Clerk or designee.

C. Requests Insufficient to Describe Record Sought. If the request is vague or so broad as to make it difficult to determine or identify the records of information requested, the employee shall so advise the requesting person within [3] 10 days of receiving the request.

D. Records Cannot Be Located. If the records cannot be located in time to make a response within [3] 10 working days of the request, the requesting party shall be promptly so advised; if the requesting party still desires the information or records, a reasonable and diligent search shall be made for them.

SECTION 2. That this ordinance takes effect immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS * DAY OF * 2020.

Kelly Cooper, Assembly President

ATTEST:

Johni Blankenship, Borough Clerk

Yes:

No:

Absent:

Kenai Peninsula Borough
Office of the Borough Clerk

MEMORANDUM

TO: Members, Kenai Peninsula Borough Assembly

THRU: Kelly Cooper, Assembly President

FROM: Johni Blankenship, Borough Clerk (JB)
Michele Turner, Deputy Clerk / Records Manager (MT)

DATE: December 23, 2019

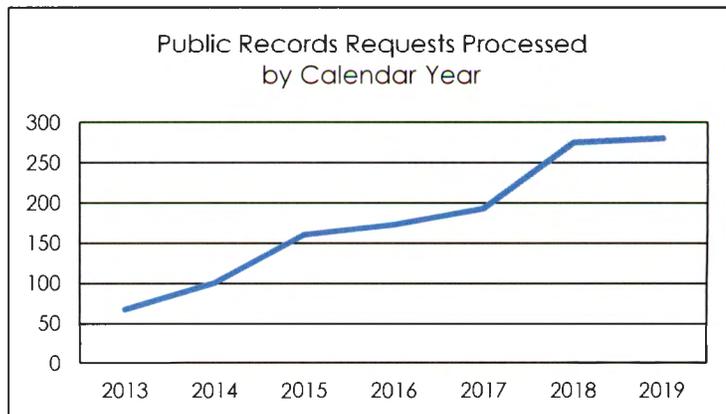
RE: Ordinance 2020-02, Amending KPB 2.54.060 Regarding Response to Request for Access to Public Records to Increase Time Limits for Response (Cooper at the Request of the Borough Clerk)

KPB 2.54.060 currently requires the borough clerk or designee to notify the requestor that the requested record is exempt, cannot be located, or that the request is insufficient to describe the record sought within three days of receipt. The State of Alaska and the Matanuska-Susitna Borough offer two examples where the time limit for response is within 10 days of the request.

The number of record requests processed by the borough continues to increase annually (see chart below). The process for internally searching paper records, as well as electronic records, is time intensive and involves multiple departments' personnel time.

Increasing the time limit for response will not suppress public access to records or otherwise change the record request process – it will simply help alleviate the immediate administrative burden for borough departments and service areas.

Your consideration is appreciated.



Kenai Peninsula Borough Planning Department

MEMORANDUM

TO: Kelly Cooper, Assembly President
Kenai Peninsula Borough Assembly Members

FROM: Max Best, Planning Director 

DATE: December 19, 2019

RE: Vacate a 100-foot wide Section Line Easement running east to west within US Survey 14477 described as a 50-foot section line easement within Section 27 and a 50-foot section line easement within Section 34. The section line easement being vacated is unconstructed and located within Sections 27 and 34, Township 5 North, Range 4 West, Seward Meridian, Alaska, within the Kenai Peninsula Borough. KPB File 2019-138V. Petitioner: Mary J. Dreifuerst of Cooper Landing, AK.

In accordance with AS 29.40.140, no vacation of a Borough right-of-way and/or easement may be made without the consent of the Borough Assembly.

During their regularly scheduled meeting of December 16, 2019, the Kenai Peninsula Borough Planning Commission granted approval of the proposed section line easement vacation by unanimous consent based on the means of evaluating public necessity established by KPB 20.70. This petition is being sent to you for your consideration and action.

Draft, unapproved minutes of the pertinent portion of the meeting and other related materials are attached.

AGENDA ITEM F. PUBLIC HEARINGS

4. Vacate a 100-foot wide Section Line Easement running east to west within US Survey 14477 described as a 50-foot section line easement within Section 27 and a 50-foot section line easement within Section 34. The section line easement being vacated is unconstructed and located within Sections 27 and 34, Township 5 North, Range 4 West, Seward Meridian, Alaska, within the Kenai Peninsula Borough. KPB File 2019-138V.

Staff Report given by Scott Huff

PC Meeting: December 16, 2019

Purpose as stated in petition: The justification for vacating the section line easements is that it will not change the existing highway nor will it keep anyone from using the adjoining properties. Because the Sterling Highway has been in place for many years, the section line between sections 27 and 34 Township 5 North Range 4 West, Seward Meridian, in this area will never be needed for a right of way. The existing Sterling Highway is parallel to the southern boundary of this property and when this property was surveyed it was staked with enough room for expansion of the existing highway if it should be needed. Chugach National Forest is on the other three sides of this property so access to any of the land around it is not a problem. And as you can see on the drawing of the USS No 14477, the 100' section line easement covers most of the improvements on this property.

Petitioners: Mary J. Dreifuerst of Cooper Landing, AK.

Notification: Public notice appeared in the December 5, 2019 issue of the Peninsula Clarion as a separate ad. The public hearing notice was published in the December 12, 2019 issue of the Peninsula Clarion as part of the Commission's tentative agenda.

Public hearing notices were sent by regular mail to two owners within 600 feet of the proposed vacation.

19 public hearing notices were emailed to agencies and interested parties.

Public hearing notices were made available to 6 KPB staff/Departments via a shared database.

Notices were mailed to the Cooper Landing Post Office and Cooper Landing Community Library with a request to be posted in public locations.

The notice and maps were posted on the Borough bulletin board and Planning Department public hearing notice web site.

Comments Received:

ACS: No comments were available at the time the staff report was prepared.

Chugach Electric Association: No objection. Please be advised that Chugach does have overhead distribution facilities crossing the parcel in an approximate east-west orientation, not affected by the proposed easement vacation.

ENSTAR: Reviewed the section line easement vacation request and has no comments, recommendations or objections.

Homer Electric Association: No comments were available at the time the staff report was prepared.

KPB Addressing: No changes to the address. The address will remain on the existing lot.

KPB Planning: There are no material site issues or local option zoning issues associated with this right of way vacation. The KPB planner attached a memo which states, 'Goal 3, Focus Area – Energy and Utilities, Objective A, Strategy 1, of the 2019 Kenai Peninsula Borough Comprehensive Plan states, "Maintain

existing easements (especially section line easements) in addition to establishing adequate utility rights of way or easements to serve existing and future utility needs.'

KPB River Center: Not within a flood hazard area. Not within the Habitat Protection District.

KPB Roads Department: Within KPB jurisdiction, no comments.

Cooper Landing Advisory Planning Commission: Not available at the time the staff report was prepared.

State Parks: No comments.

TelAlaska: No comments were available at the time the staff report was prepared.

Staff Discussion: US Survey 14477 created a 2.00 acre parcel within the Chugach National Forest, approximately 1 mile east of the confluence of the Russian River and the Kenai River. The two acre parcel was patented from the Federal Government to the State of Alaska on January 31, 2018 and then patented from the State to Ms. Dreifuerst on July 6, 2019. The State claims a 100' wide section line easement on the section line common to Sections 27 and 34 that crosses the middle of the 2 acre parcel.

If approved, Section Line Easement Vacation Plat Associated with US Survey 14477 KPB 2019-138 will finalize the proposed section line easement vacation. The Plat Committee is tentatively scheduled to review KPB 2019-138 on January 6, 2020.

The State of Alaska granted preliminary approval to the vacation on October 8, 2019 (DNR Survey Case File EV-3-302) with conditions that include "Document the existence of an easement along the powerline, or dedicate an easement of sufficient width."

KPB 20.70 – Vacation Requirements.

Platting staff comments: *Staff reviewed the vacation and all the items required by 20.70 were met, unless otherwise noted below:*

20.70.050. Petition—Information required.

- B. Persons listed on the borough assessor's tax roll shall be deemed the legal owners for purposes of the vacation petition. **The petition shall include a statement containing the reasons in support of the vacation** and be accompanied by a minimum of three copies of a sketch clearly indicating the proposed vacation, submitted to the planning department at least 30 calendar days in advance of the meeting at which it will be considered. In cases where encroachments on public rights-of-way are in question, an as-built survey, sealed by a surveyor, is required showing the improvements, existing travelways, amount of encroachment, and any other submittal as requested by the planning commission. **The burden of proof shall lie with the petitioner to support the vacation.**

Petitioner Comments: *The justification for vacating the section line easements is that it will not change the existing highway nor will it keep anyone from using the adjoining properties. Because the Sterling Highway has been in place for many years, the section line between sections 27 and 34 Township 5 North Range 4 West, Seward Meridian, in this area will never be needed for a right of way. The existing Sterling Highway is parallel to the southern boundary of this property and when this property was surveyed it was staked with enough room for expansion of the existing highway if it should be needed. Chugach National Forest is on the other three sides of this property so access to any of the land around it is not a problem. And as you can see on the drawing of the USS No 14477, the 100' section line easement covers most of the improvements on this property.*

20.70.130. Vacation plat—Preparation, approval and recording. Upon approval of the vacation request by the planning commission and no veto by the city council or assembly, the applicant shall have a surveyor prepare and submit a plat including the entire area approved for vacation in conformance with KPB 20.10.080. Only the area approved for vacation by the assembly or council may be included on the plat. The final plat must be recorded within one year of the vacation consent in KPB 20.70.110.

Platting Staff Comments: A preliminary plat, KPB 2019-138, was submitted and is tentatively scheduled to be heard by the Plat Committee on January 6, 2020.

Staff recommendation: *Comply with KPB 20.70.130.*

20.70.170. Vehicular Access. The planning commission shall not approve the vacation of a right-of-way unless an equal or superior right-of-way for vehicular access exists or will be provided in exchange. Where two or more access points are necessary for large vacant or semi-vacant areas of land, the commission shall consider density, use, projected development, and maintain sufficient rights-of-way to serve potential use.

Platting Staff Comments: Per the submittal, the section line easement is not constructed and in not use for vehicular access.

The parcel is surrounded on three sides by the Chugach National Forest and on the fourth by the Sterling Highway. Per the DNR preliminary decision, no section line easement exists east or west of the proposed vacation. Per the submittal and aerial imagery, several structures exist within the majority of the section line easements, stretching across the full 100' width of the easement.

Superior vehicular access exists approximately 30' to 125' to the south on the constructed, DOT maintained Sterling Highway right-of-way that runs generally parallel to the easement. The large acreage parcel part of the Chugach National Forest is provided access by the Sterling Highway and is not provided access by the subject section line easement.

Staff recommendation: *Concur that superior vehicular access exists within the Sterling Highway right-of-way.*

20.70.180. Other access. Other lawful uses that exist or are feasible for the right-of-way shall be considered when evaluating a vacation request. When such uses exist or could exist within rights-of-way which are not suited for general road use, the commission shall not approve the vacation request, unless it can be demonstrated that equal or superior access is or will be available. The planning commission shall consider whether alternate uses present public safety issues which support approval of the vacation.

Platting Staff Comments: Per the submittal, the section line easement is not in use for pedestrian or other uses.

KPB four foot contours indicate the easement is relatively flat. Kenai Watershed Forum Wetland mapping indicate that the easternmost portion of the easement is affected by kettle wetlands. As noted above, several structures preclude general road use within the easement. In addition, the structures will generally preclude other uses. A pedestrian could, in theory walk through the National Forest, across the parcel on the section line easement, and back into the National Forest. However, superior access exists in the Sterling Highway right-of-way to the south.

Staff recommendation: *Concur that superior access for other uses exists within the Sterling Highway right-of-way.*

20.70.190. Utility provisions. All existing and future utility requirements shall be considered when evaluating a vacation request. Rights-of-way which are utilized by a public utility or which logically would be required by a public utility shall not be vacated, unless it can be demonstrated that equal or superior access is or will be available. Where an easement would satisfactorily serve the utility interests, and no other public need for the right-of-way exists, the commission may approve the vacation and require that a public utility easement be granted in place of the right-of-way.

Platting Staff Comments: Per the submittal, an overhead utility line crosses the parcel and a portion of the section line easement. Per the DNR preliminary approval, the petitioner must "Document the existence of an easement along the power line, or dedicate an easement of sufficient width."

No other public need exists for this section line easement. The easement does not continue to the east or west beyond the approximately 340' stretch within the subject parcel and runs generally parallel to the Sterling Highway right-of-way to the south which provides superior access. The existing powerline only crosses a portion of the section line easement proposed to be vacated. An easement on the existing overhead lines would satisfactorily serve the utility interests.

Staff recommendation:

- Grant a 20' utility easement centered on the existing overhead lines within the parcel.
- Concur that an easement granted on existing overhead lines will satisfactorily serve the utility interests and that superior utility access is available in the Sterling Highway right-of-way.

20.30.220. Section line easement vacations. Section line easement vacation petitions must comply with the requirements of KPB 20.70.040, 20.70.050 and 20.70.060. A fee is required in compliance with KPB 20.70.060. Public hearing and notice must comply with the requirements of KPB 20.70.070, 20.70.080, 20.70.100, 20.70.110 and 20.70.120. The mail notice required in KPB 20.70.090 may be by regular mail. Publication on the planning commission agenda, advertised once in local papers, posted in public areas and on the borough website prior to the meeting will satisfy the publishing requirements. The petitioner is responsible for all submittals required by the State of Alaska Department of Natural Resources (DNR) in compliance with their procedures. The petition must be reviewed and approved by the planning commission but final authority for approval and platting of the vacation rests with DNR. The petitioner is responsible for coordination with DNR and submittals to DNR.

Staff recommendation: Comply with KPB 20.30.220.

STAFF RECOMMENDATION: Based on the above means of evaluating public necessity established by KPB 20.70, the merits of the proposed vacations, and staff comments, staff recommends approval to vacate any interest the borough may have in the section line easement subject to:

1. Consent by KPB Assembly.
2. Compliance with the requirements for preliminary plats per Chapter 20 of the KPB Code.
3. Grant utility easements requested by DNR and utility providers.
4. Submittal of a final plat.

KPB 20.70.110:

A vacation of a street right-of-way, public area, or public easement within the borough outside of the limits of cities may not be made without the consent of the borough assembly.

The assembly shall have 30 calendar days from the date of approval in which to veto the planning commission decision. If no veto is received by the planning director within the specified period, the borough shall be considered to have given consent to the vacation.

KPB 20.70.120:

- A. Denial of a vacation petition is a final act for which no further consideration shall be given by the Kenai Peninsula Borough.**
- B. Upon denial by the planning commission, no reapplication or petition concerning the same vacation may be filed within one calendar year of the date of the final denial action except in the case where new evidence or circumstances exist that were not available or present when the original petition was filed.**

END OF STAFF REPORT

Mr. Huff noted that the Cooper Landing Advisory Planning Commission heard this item on December 4, 2019 and minutes were included in the desk packet. He added that on page 83 and 84 of the packet there was an aerial image that shows the section line easement crossing the middle of the lot, the highway frontage on the south side, and the forest service lands surrounding the rest of the parcel.

Chairman Martin asked if anyone from the public wished to comment on this item. Seeing and hearing no one wishing to comment, Chairman Martin closed public comment and opened discussion among the Commission.

MOTION: Commissioner Morgan moved, seconded by Commissioner Venuti, to approve the vacation of the 100-foot wide section line easement as petitioned, subject to staff recommendations and compliance with borough code.

Commissioner Carluccio felt that the Cooper Landing Advisory Planning Commission was not in favor of the vacation without some type of compensation. Commissioner Morgan said the way she understood it was that they did not see a reason deny this vacation but vacations should not be taken lightly.

Commissioner Carluccio is generally not in favor of vacationing section line easements. She does not see if the section line easement continues on both sides of the property. Mr. Huff responded that the section line has not been surveyed. There is a protraction diagram that draws dotted lines for all the sections and if the state takes ownership of property with protracted section lines, a 50-foot section line easement is placed on it. This property went from federal to state and then to private ownership. As soon as the ownership changed to the state a 50-foot section line easement was placed on the line even though it was not officially surveyed. Commissioner Carluccio stated that it is was not officially surveyed but someone built a house on it. Mr. Huff said the property was surveyed as part of the US Survey but the section corners have not been set to define the section lines. The true location of the section line easement is not known until officially surveyed.

Commissioner Ecklund said that one of the Cooper Landing Advisory Planning Commission members made a statement that there should be some type of transfer. In the past when asking for a vacation, compensation is given by dedicating a portion of the property as a park, pathway, access, or easement. In this case, there is nothing that needs access. She asked staff if the property was developed while still under federal ownership. Mr. Huff said the improvements have been there for a long time from when it was federal property. To get it to private ownership it had to transfer to the state first and that is when the section line easement was put in place. The state is particular when vacating section line easements. Equal or superior access has to be somewhere else. The state has already agreed to this.

Mr. Best added that the longevity of the improvements go well beyond most of the people in Cooper Landing. This was a federal lease to Bill Fuller and his wife from a long time ago.

MOTION PASSED: Seeing and hearing no discussion or objection, the motion passed by unanimous consent.

F. PUBLIC HEARINGS

- 4. 100-foot wide Section Line Easement
Vacation in the Cooper Landing area.
KPB File 2019-138V
Petitioner: Mary J. Dreifuerst**

AGENDA ITEM F. PUBLIC HEARINGS

4. Vacate a 100-foot wide Section Line Easement running east to west within US Survey 14477 described as a 50-foot section line easement within Section 27 and a 50-foot section line easement within Section 34. The section line easement being vacated is unconstructed and located within Sections 27 and 34, Township 5 North, Range 4 West, Seward Meridian, Alaska, within the Kenai Peninsula Borough. KPB File 2019-138V.

STAFF REPORT

PC Meeting: 12/16/19

Purpose as stated in petition: The justification for vacating the section line easements is that it will not change the existing highway nor will it keep anyone from using the adjoining properties. Because the Sterling Highway has been in place for many years, the section line between sections 27 and 34 Township 5 North Range 4 West, Seward Meridian, in this area will never be needed for a right of way. The existing Sterling Highway is parallel to the southern boundary of this property and when this property was surveyed it was staked with enough room for expansion of the existing highway if it should be needed. Chugach National Forest is on the other three sides of this property so access to any of the land around it is not a problem. And as you can see on the drawing of the USS No 14477, the 100' section line easement covers most of the improvements on this property.

Petitioners: Mary J. Dreifuert of Cooper Landing, AK.

Notification: Public notice appeared in the December 5, 2019 issue of the Peninsula Clarion as a separate ad. The public hearing notice was published in the December 12, 2019 issue of the Peninsula Clarion as part of the Commission's tentative agenda.

Public hearing notices were sent by regular mail to two owners within 600 feet of the proposed vacation.

19 public hearing notices were emailed to agencies and interested parties.

Public hearing notices were made available to 6 KPB staff/Departments via a shared database.

Notices were mailed to the Cooper Landing Post Office and Cooper Landing Community Library with a request to be posted in public locations.

The notice and maps were posted on the Borough bulletin board and Planning Department public hearing notice web site.

Comments Received:

ACS: No comments were available at the time the staff report was prepared.

Chugach Electric Association: No objection. Please be advised that Chugach does have overhead distribution facilities crossing the parcel in an approximate east-west orientation, not affected by the proposed easement vacation.

ENSTAR: Reviewed the section line easement vacation request and has no comments, recommendations or objections.

Homer Electric Association: No comments were available at the time the staff report was prepared.

KPB Addressing: No changes to the address. The address will remain on the existing lot.

KPB Planning: There are no material site issues or local option zoning issues associated with this right of way vacation. The KPB planner attached a memo which states, *Goal 3, Focus Area – Energy and*

Utilities, Objective A, Strategy 1, of the 2019 Kenai Peninsula Borough Comprehensive Plan states, "Maintain existing easements (especially section line easements) in addition to establishing adequate utility rights of way or easements to serve existing and future utility needs."

KPB River Center: Not within a flood hazard area. Not within the Habitat Protection District.

KPB Roads Department: Within KPB jurisdiction, no comments.

Cooper Landing Advisory Planning Commission: Not available at the time the staff report was prepared.

State Parks: No comments.

TelAlaska: No comments were available at the time the staff report was prepared.

Staff Discussion: US Survey 14477 created a 2.00 acre parcel within the Chugach National Forest, approximately 1 mile east of the confluence of the Russian River and the Kenai River. The two acre parcel was patented from the Federal Government to the State of Alaska on January 31, 2018 and then patented from the State to Ms. Dreifuerst on July 6, 2019. The State claims a 100' wide section line easement on the section line common to Sections 27 and 34 that crosses the middle of the 2 acre parcel.

If approved, Section Line Easement Vacation Plat Associated with US Survey 14477 KPB 2019-138 will finalize the proposed section line easement vacation. The Plat Committee is tentatively scheduled to review KPB 2019-138 on January 6, 2020.

The State of Alaska granted preliminary approval to the vacation on October 8, 2019 (DNR Survey Case File EV-3-302) with conditions that include "Document the existence of an easement along the powerline, or dedicate an easement of sufficient width."

KPB 20.70 – Vacation Requirements.

Platting staff comments: *Staff reviewed the vacation and all the items required by 20.70 were met, unless otherwise noted below:*

20.70.050. Petition—Information required.

- B. Persons listed on the borough assessor's tax roll shall be deemed the legal owners for purposes of the vacation petition. **The petition shall include a statement containing the reasons in support of the vacation** and be accompanied by a minimum of three copies of a sketch clearly indicating the proposed vacation, submitted to the planning department at least 30 calendar days in advance of the meeting at which it will be considered. In cases where encroachments on public rights-of-way are in question, an as-built survey, sealed by a surveyor, is required showing the improvements, existing travelways, amount of encroachment, and any other submittal as requested by the planning commission. **The burden of proof shall lie with the petitioner to support the vacation.**

Petitioner Comments: The justification for vacating the section line easements is that it will not change the existing highway nor will it keep anyone from using the adjoining properties. Because the Sterling Highway has been in place for many years, the section line between sections 27 and 34 Township 5 North Range 4 West, Seward Meridian, in this area will never be needed for a right of way. The existing Sterling Highway is parallel to the southern boundary of this property and when this property was surveyed it was staked with enough room for expansion of the existing highway if it should be needed. Chugach National Forest is on the other three sides of this property so access to any of the land around it is not a problem. And as you can see on the drawing of the USS No 14477, the 100' section line easement covers most of the improvements on this property.

20.70.130. Vacation plat—Preparation, approval and recording. Upon approval of the vacation request by the planning commission and no veto by the city council or assembly, the applicant shall have a surveyor prepare and submit a plat including the entire area approved for vacation in conformance with KPB

20.10.080. Only the area approved for vacation by the assembly or council may be included on the plat. The final plat must be recorded within one year of the vacation consent in KPB 20.70.110.

Platting Staff Comments: A preliminary plat, KPB 2019-138, was submitted and is tentatively scheduled to be heard by the Plat Committee on January 6, 2020.

Staff recommendation: Comply with KPB 20.70.130.

20.70.170. Vehicular Access. The planning commission shall not approve the vacation of a right-of-way unless an equal or superior right-of-way for vehicular access exists or will be provided in exchange. Where two or more access points are necessary for large vacant or semi-vacant areas of land, the commission shall consider density, use, projected development, and maintain sufficient rights-of-way to serve potential use.

Platting Staff Comments: Per the submittal, the section line easement is not constructed and in not use for vehicular access.

The parcel is surrounded on three sides by the Chugach National Forest and on the fourth by the Sterling Highway. Per the DNR preliminary decision, no section line easement exists east or west of the proposed vacation. Per the submittal and aerial imagery, several structures exist within the majority of the section line easements, stretching across the full 100' width of the easement.

Superior vehicular access exists approximately 30' to 125' to the south on the constructed, DOT maintained Sterling Highway right-of-way that runs generally parallel to the easement. The large acreage parcel part of the Chugach National Forest is provided access by the Sterling Highway and is not provided access by the subject section line easement.

Staff recommendation: Concur that superior vehicular access exists within the Sterling Highway right-of-way.

20.70.180. Other access. Other lawful uses that exist or are feasible for the right-of-way shall be considered when evaluating a vacation request. When such uses exist or could exist within rights-of-way which are not suited for general road use, the commission shall not approve the vacation request, unless it can be demonstrated that equal or superior access is or will be available. The planning commission shall consider whether alternate uses present public safety issues which support approval of the vacation.

Platting Staff Comments: Per the submittal, the section line easement is not in use for pedestrian or other uses.

KPB four foot contours indicate the easement is relatively flat. Kenai Watershed Forum Wetland mapping indicate that the easternmost portion of the easement is affected by kettle wetlands. As noted above, several structures preclude general road use within the easement. In addition, the structures will generally preclude other uses. A pedestrian could, in theory walk through the National Forest, across the parcel on the section line easement, and back into the National Forest. However, superior access exists in the Sterling Highway right-of-way to the south.

Staff recommendation: Concur that superior access for other uses exists within the Sterling Highway right-of-way.

20.70.190. Utility provisions. All existing and future utility requirements shall be considered when evaluating a vacation request. Rights-of-way which are utilized by a public utility or which logically would be required by a public utility shall not be vacated, unless it can be demonstrated that equal or superior access is or will be available. Where an easement would satisfactorily serve the utility interests, and no other public need for the right-of-way exists, the commission may approve the vacation and require that a public utility easement be granted in place of the right-of-way.

Platting Staff Comments: Per the submittal, an overhead utility line crosses the parcel and a portion of the section line easement. Per the DNR preliminary approval, the petitioner must "Document the existence of an easement along the power line, or dedicate an easement of sufficient width."

No other public need exists for this section line easement. The easement does not continue to the east or west beyond the approximately 340' stretch within the subject parcel and runs generally parallel to the

Sterling Highway right-of-way to the south which provides superior access. The existing powerline only crosses a portion of the section line easement proposed to be vacated. An easement on the existing overhead lines would satisfactorily serve the utility interests.

Staff recommendation:

- *Grant a 20' utility easement centered on the existing overhead lines within the parcel.*
- *Concur that an easement granted on existing overhead lines will satisfactorily serve the utility interests and that superior utility access is available in the Sterling Highway right-of-way.*

20.30.220. Section line easement vacations. Section line easement vacation petitions must comply with the requirements of KPB 20.70.040, 20.70.050 and 20.70.060. A fee is required in compliance with KPB 20.70.060. Public hearing and notice must comply with the requirements of KPB 20.70.070, 20.70.080, 20.70.100, 20.70.110 and 20.70.120. The mail notice required in KPB 20.70.090 may be by regular mail. Publication on the planning commission agenda, advertised once in local papers, posted in public areas and on the borough website prior to the meeting will satisfy the publishing requirements. The petitioner is responsible for all submittals required by the State of Alaska Department of Natural Resources (DNR) in compliance with their procedures. The petition must be reviewed and approved by the planning commission but final authority for approval and platting of the vacation rests with DNR. The petitioner is responsible for coordination with DNR and submittals to DNR.

Staff recommendation: *Comply with KPB 20.30.220.*

STAFF RECOMMENDATION: Based on the above means of evaluating public necessity established by KPB 20.70, the merits of the proposed vacations, and staff comments, staff recommends approval to vacate any interest the borough may have in the section line easement subject to:

1. Consent by KPB Assembly.
2. Compliance with the requirements for preliminary plats per Chapter 20 of the KPB Code.
3. Grant utility easements requested by DNR and utility providers.
4. Submittal of a final plat.

KPB 20.70.110:

A vacation of a street right-of-way, public area, or public easement within the borough outside of the limits of cities may not be made without the consent of the borough assembly.

The assembly shall have 30 calendar days from the date of approval in which to veto the planning commission decision. If no veto is received by the planning director within the specified period, the borough shall be considered to have given consent to the vacation.

KPB 20.70.120:

- A. **Denial of a vacation petition is a final act for which no further consideration shall be given by the Kenai Peninsula Borough.**
- B. **Upon denial by the planning commission, no reapplication or petition concerning the same vacation may be filed within one calendar year of the date of the final denial action except in the case where new evidence or circumstances exist that were not available or present when the original petition was filed.**

END OF STAFF REPORT

SECTION-LINE EASEMENT VACATION CERTIFICATE APPROVAL RECOMMENDATION

STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

THE VACATION STATEMENT, AS SHOWN HEREOF, HAS BEEN REVIEWED BY THE REGIONAL OFFICE AND IS HEREBY RECOMMENDED FOR APPROVAL BY THE COMMISSIONER.

RECOMMENDED BY: _____ DATE: _____

TITLE: REGIONAL RIGHTS-OF-WAY AGENT

STATE OF ALASKA DIVISION OF MINING, LAND & WATER

THE VACATION STATEMENT, AS SHOWN HEREOF, HAS BEEN REVIEWED BY THE DIVISION OF MINING, LAND & WATER, AND IS HEREBY RECOMMENDED FOR APPROVAL BY THE COMMISSIONER.

RECOMMENDED BY: _____ DATE: _____

TITLE: DIRECTOR, DIVISION OF MINING, LAND & WATER

THE STATE OF ALASKA, ACTING BY AND THROUGH THE COMMISSIONER OF THE DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES, AND THE COMMISSIONER OF THE DIVISION OF MINING, LAND & WATER, DO HEREBY STATE AND DECLARE THAT THE STATE OF ALASKA VACATES AND RELEASES ALL RIGHTS AND TITLE TO ANY AND ALL PORTIONS OF THE PUBLIC LANDS (SPECIFIC AREA DELINEATED BY DIAGONAL HATCHING ON THIS PLAT.)

DATE: _____ APPROVED: _____
COMMISSIONER
DEPARTMENT OF TRANSPORTATION AND
PUBLIC FACILITIES

DATE: _____ APPROVED: _____
COMMISSIONER
DEPARTMENT OF NATURAL RESOURCES

LEGEND
◆ ROUND ELM BC MONUMENT
ON OCT. 8, 2016
1 CORNER NUMBER 10



STERLING HIGHWAY

TAX CERTIFICATE
THIS PLAT WAS APPROVED BY THE REGAL PENINSULA BOROUGH AT THE TIME OF FILING. THIS SUBDIVISION LIES WITHIN THE REGAL PENINSULA BOROUGH TAXING AUTHORITY.

PLAT APPROVAL
THIS PLAT WAS APPROVED BY THE REGAL PENINSULA BOROUGH AT THE MEETING OF _____

BOROUGH OFFICIAL

NOTES
1. DIAGONALLY HATCHED AREA INDICATES PORTION OF THE SECTION-LINE EASEMENT VACATED WITHIN SECTIONS 27 AND 34, TOWNSHIP 10 NORTH, RANGE 4 WEST, SEWARD MERIDIAN, ALASKA. IT IS NOT THE INTENT OF THIS PLAT TO VACATE ANY OTHER PORTIONS OF THE SECTION-LINE EASEMENT. THE PLAT TO VACATE ANY OTHER PORTIONS OF THE SECTION-LINE EASEMENT MUST BE COMPILED FROM EXISTING RECORD INFORMATION.
DATE: _____ BY: _____
REGISTERED LAND SURVEYOR REGISTRATION NO. _____

CERTIFICATE OF OWNERSHIP:
I, THE UNDERSIGNED, CERTIFY THAT I AM THE ABEED AND SOLE OWNER OF THE SECTION-LINE EASEMENT SHOWN ON THE PLAT, I HAD APPROVE THIS SECTION-LINE EASEMENT VACATION PLAT.

DATE: _____ OWNERS NAME AND ADDRESS: _____

NOTARY'S ACKNOWLEDGEMENT

SUBSCRIBED AND SWORN TO BEFORE ME THIS _____ DAY OF _____ 20____
BY: _____

NOTARY FOR THE STATE OF ALASKA
BY COMMISSION EXPIRES: _____

DATE: _____

SECTION-LINE EASEMENT VACATION PLAT
ASSOCIATED WITH:
U.S. SURVEY #14177
SECTIONS 27 & 34, T10N, R4W, SEWARD MERIDIAN, ALASKA
SEWARD RECORDING DISTRICT
Drawn by: BEC
Date: 1/7/19
APPROVAL RECOMMENDED

STATE OF ALASKA
49th
Department of Natural Resources
Division of Mining, Land & Water
ANCHORAGE, ALASKA



SURVEYOR'S CERTIFICATE
I HEREBY CERTIFY THAT I AM PROPERLY REGISTERED AND QUALIFIED TO SURVEY IN THE STATE OF ALASKA. THE SURVEY WAS MADE IN ACCORDANCE WITH THE ALASKA SURVEYING ACT AND THAT THIS PLAT WAS DRAFTED UNDER MY DIRECT SUPERVISION, AND THAT ALL DATA SHOWN HEREON IS TRUE AND CORRECT AS COMPILED FROM EXISTING RECORD INFORMATION.
DATE: _____ BY: _____
REGISTERED LAND SURVEYOR REGISTRATION NO. _____

MAP OF AS-BUILT SURVEY
OF

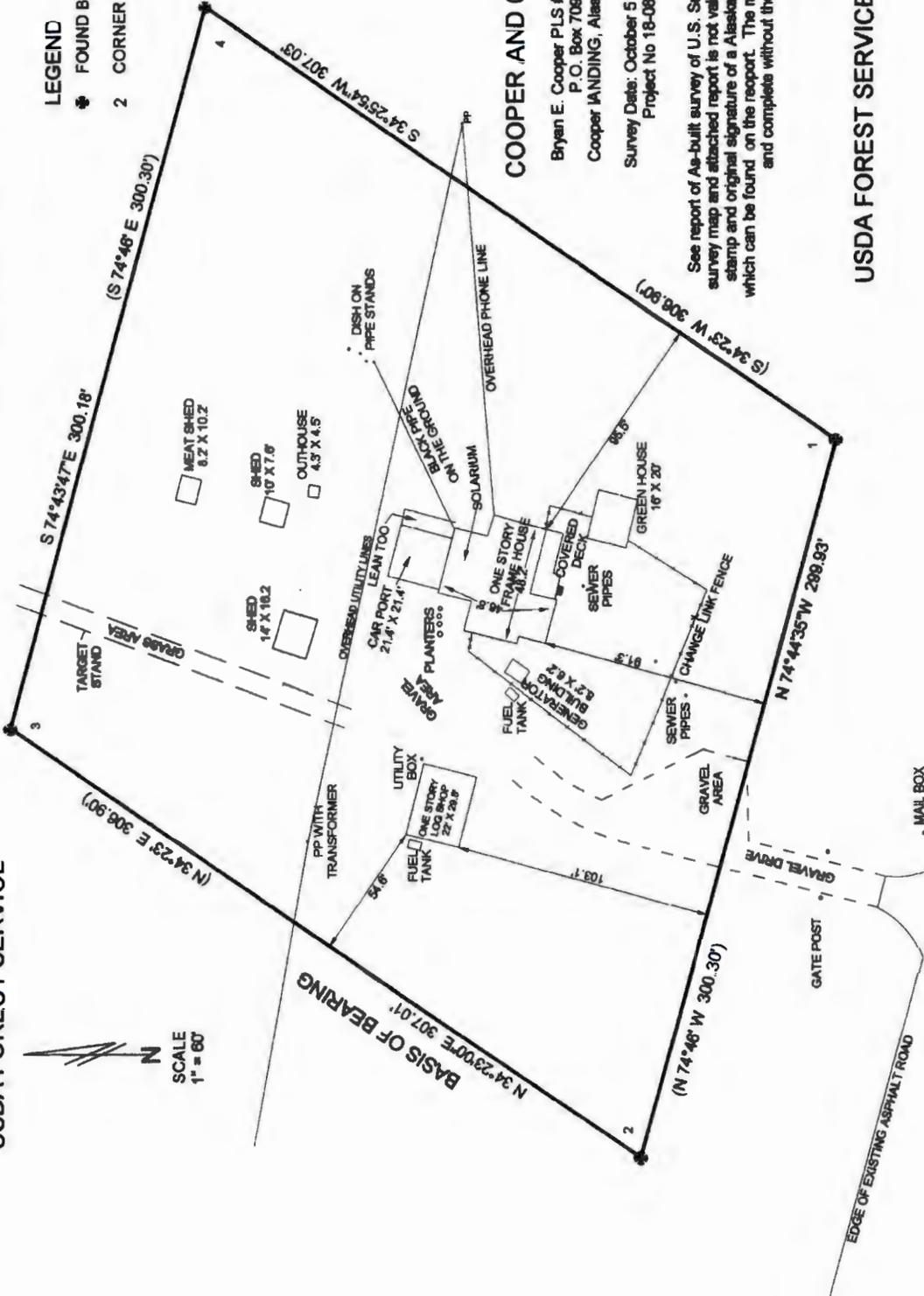
U. S. SURVEY NO. 14477

USDA FOREST SERVICE



SCALE
1" = 60'

- LEGEND
- ♣ FOUND BLM BC MONUMENT
 - 2 CORNER NUMBER



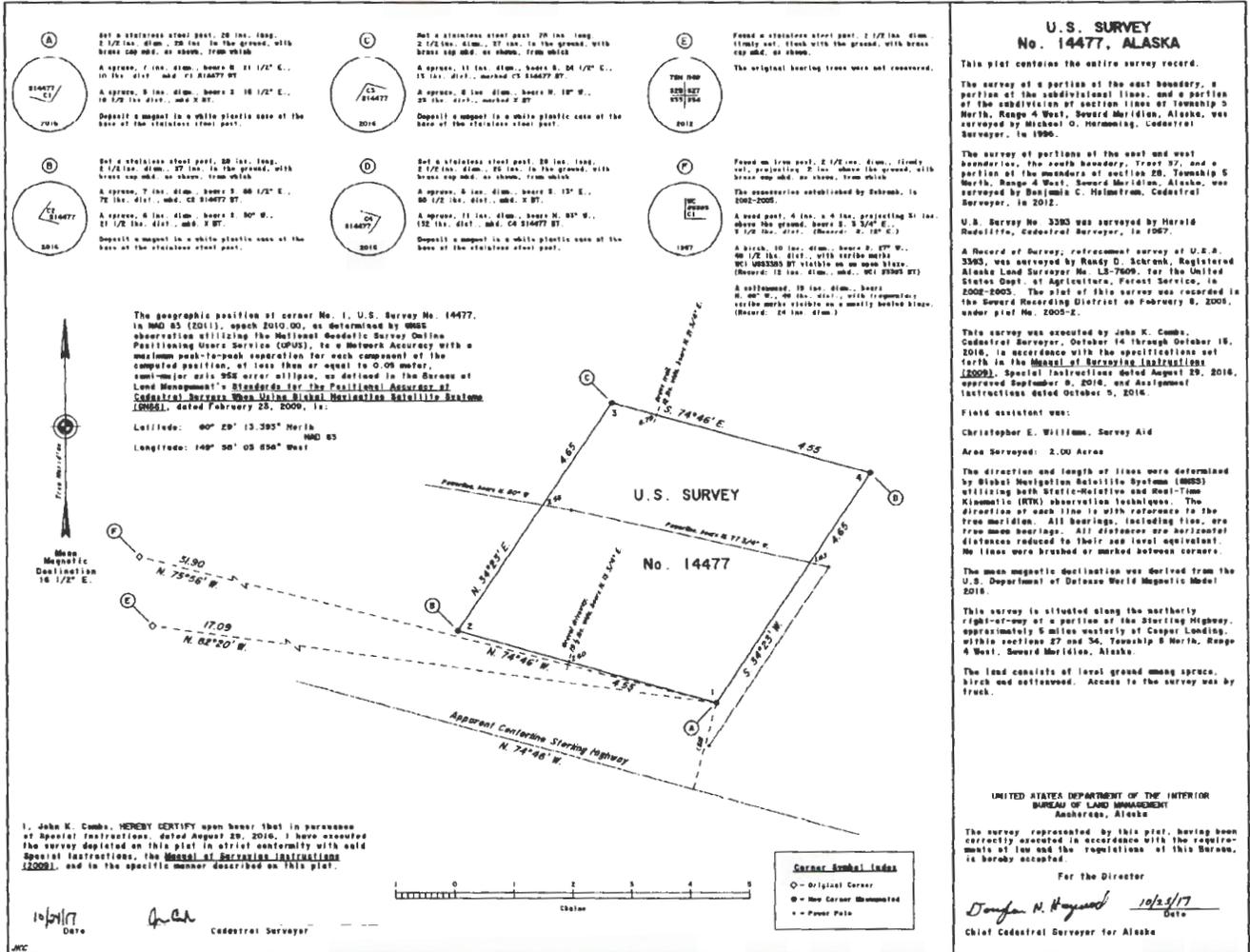
COOPER AND COMPANY

Bryan E. Cooper PLS #LS 5733
P.O. Box 709
Cooper LANDING, Alaska 99572
Survey Date: October 5 & 6, 2018
Project No 18-08-05

See report of As-built survey of U.S. Survey No. 14477. This survey map and attached report is not valid without the surveyor's stamp and original signature of a Alaska licensed land surveyor which can be found on the report. The map and report are not full and complete without the other.

USDA FOREST SERVICE

KPB 2019-138V



(A) Set a stainless steel post, 20 lbs. long, 1 1/2 in. diam., 20 in. in the ground, with brass cap and, as shown, from which
A spruce, 7 in. diam., bears S 21 1/2° E., 18 1/2 in. dist., marked X BT.
Deposit a magnet in a white plastic case at the base of the stainless steel post.

(B) Set a stainless steel post, 20 lbs. long, 1 1/2 in. diam., 27 in. in the ground, with brass cap and, as shown, from which
A spruce, 7 in. diam., bears S 68 1/2° E., 78 in. dist., marked X BT.
A spruce, 6 in. diam., bears S 90° W., 21 1/2 in. dist., marked X BT.
Deposit a magnet in a white plastic case at the base of the stainless steel post.

(C) Set a stainless steel post, 20 lbs. long, 1 1/2 in. diam., 27 in. in the ground, with brass cap and, as shown, from which
A spruce, 11 in. diam., bears S 24 1/2° E., 18 in. dist., marked X BT.
A spruce, 8 in. diam., bears N 12° W., 25 in. dist., marked X BT.
Deposit a magnet in a white plastic case at the base of the stainless steel post.

(D) Set a stainless steel post, 20 lbs. long, 1 1/2 in. diam., 25 in. in the ground, with brass cap and, as shown, from which
A spruce, 8 in. diam., bears S 13° E., 50 1/2 in. dist., marked X BT.
A spruce, 10 in. diam., bears N 83° W., 132 in. dist., marked X BT.
Deposit a magnet in a white plastic case at the base of the stainless steel post.

(E) Found a stainless steel post, 1 1/2 in. diam., firmly set, flush with the ground, with brass cap and, as shown.
The original bearing trees were not recovered.

(F) Found an iron post, 2 1/2 in. diam., firmly set, projecting 2 in. above the ground, with brass cap and, as shown, from which
The easements established by Subsec. 10 2002-2005.

(G) A wood post, 4 in. x 4 in., projecting 2 in. above the ground, bears S 3 3/4° E., 1 1/2 in. dist. (Bearing: S 18° E.).

(H) A birch, 10 in. diam., bears S 67° W., 40 1/2 in. dist., with white marks
N 60° W., 40 in. dist., with red marks
on the marks visible on a nearby bearing tree. (Bearing: 24 in. diam.)

U. S. SURVEY No. 14477, ALASKA

This plat contains the entire survey record.

The survey of a portion of the east boundary, a portion of the subdivision lines, and a portion of the subdivision at section lines of Township 5 North, Range 4 West, Seward Meridian, Alaska, was surveyed by Michael O. Hermoning, Cadastral Surveyor, in 1996.

The survey of portions of the east and west boundaries, the south boundary, Tract 37, and a portion of the boundary of section 28, Township 5 North, Range 4 West, Seward Meridian, Alaska, was surveyed by Benjamin C. Holmstrom, Cadastral Surveyor, in 2012.

U. S. Survey No. 3393 was surveyed by Harold Redcliffe, Cadastral Surveyor, in 1967.

A Record of Survey, retrocommenced survey of U.S.S. 3393, was surveyed by Randy D. Schrank, Registered Alaska Land Surveyor No. LS-7609, for the United States Dept. of Agriculture, Forest Service, in 2002-2003. The plat of this survey was recorded in the Seward Recording District on February 9, 2005, under plat No. 2005-2.

This survey was executed by John K. Combs, Cadastral Surveyor, October 14 through October 18, 2016, in accordance with the specifications set forth in the Manual of Surveying Instructions (2009). Special Instructions dated August 29, 2016, revised September 8, 2016, and Assignment Instructions dated October 5, 2016.

Field assistant was:
Christopher E. Williams, Survey Aid

Area Surveyed: 2.00 Acres

The direction and length of lines were determined by Global Navigation Satellite System (GNSS) utilizing both Static-Relative and Real-Time Kinematic (RTK) observation techniques. The direction of each line is with reference to the true meridian. All bearings, including ties, are from mean bearings. All distances are horizontal distances reduced to their sea level equivalent. No lines were brushed or marked between corners.

The mean magnetic declination was derived from the U.S. Department of Defense World Magnetic Model 2016.

This survey is situated along the easterly right-of-way of a portion of the Starting Highway, approximately 5 miles westerly of Cooper Landing, within sections 27 and 36, Township 5 North, Range 4 West, Seward Meridian, Alaska.

The land consists of level ground among spruce, birch and outcrops. Access to the survey was by track.

The geographic position of corner No. 1, U. S. Survey No. 14477, in NAD 83 (2011), epoch 2010.00, as determined by GNSS observation utilizing the National Geodetic Survey Continuously Operating Reference Station (CORS), to a Network Accuracy with a maximum peak-to-peak separation for each component of the computed position, of less than or equal to 0.09 meter, semi-major axis 95% error ellipse, as defined in the Bureau of Land Management's Standards for the Positional Accuracy of Cadastral Surveys Using the Global Navigation Satellite System (GNSS), dated February 29, 2009, is:

Latitude: 60° 29' 13.395" North
Longitude: 149° 08' 03.856" West

I, John K. Combs, HEREBY CERTIFY upon being that in pursuance of Special Instructions, dated August 29, 2016, I have executed the survey depicted on this plat in strict conformity with said Special Instructions, the Manual of Surveying Instructions (2009), and in the specific manner described on this plat.

10/20/17
Date
J.K.C.
Cadastral Surveyor

Corner Symbol Index

○ - Original Corner
● - New Corner Monumented
+ - Power Pole

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
Anchorage, Alaska

The survey represented by this plat, having been correctly executed in accordance with the requirements of law and the regulations of this Bureau, is hereby accepted.

For the Director
Douglas M. Hayward 10/23/17
Date
Chief Cadastral Surveyor for Alaska

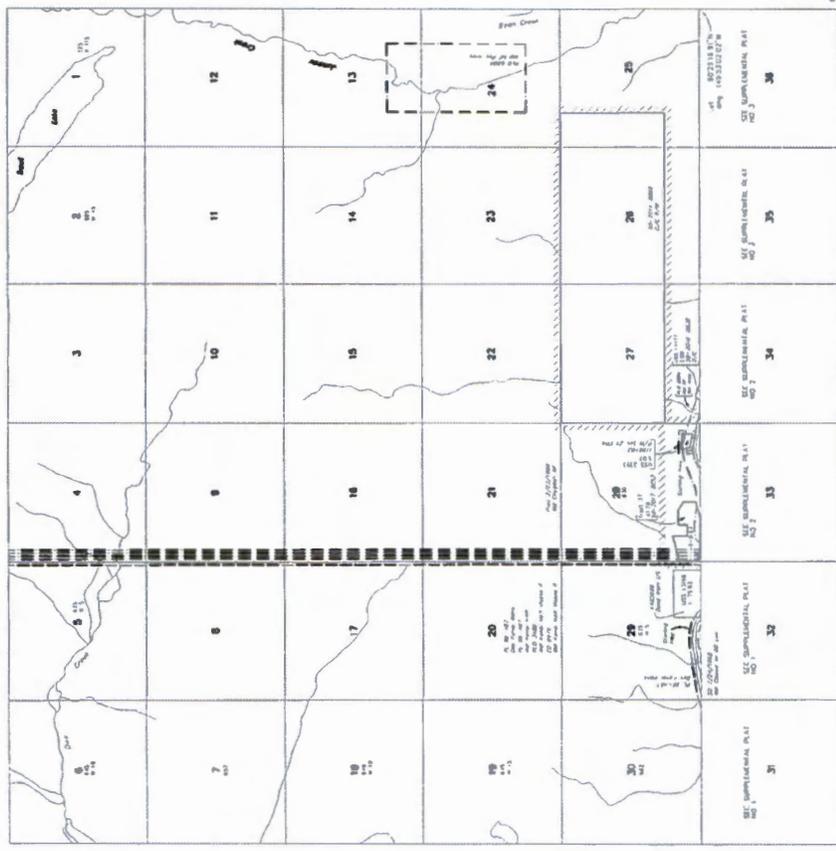
PARTIALLY SURVEYED TOWNSHIP 5 NORTH RANGE 4 WEST OF THE SEWARD MERIDIAN, ALASKA

PRODUCTION DIAGRAM NO. 26, 6 OFFICIAL FILED 8 9 1983

STATUS OF PUBLIC DOMAIN
LAND AND MINERAL RIGHTS

MTP

1. OWNERS LISTING THE ORIGINAL OR NOT OF AN
UNPATENTED LAND RESERVE FOR RECREATION
OR PUBLIC USE SHALL BE DEEMED TO HAVE
ACQUIRED THE MINERAL RIGHTS THEREIN



ACAD
 10/11/82
 10/11/82
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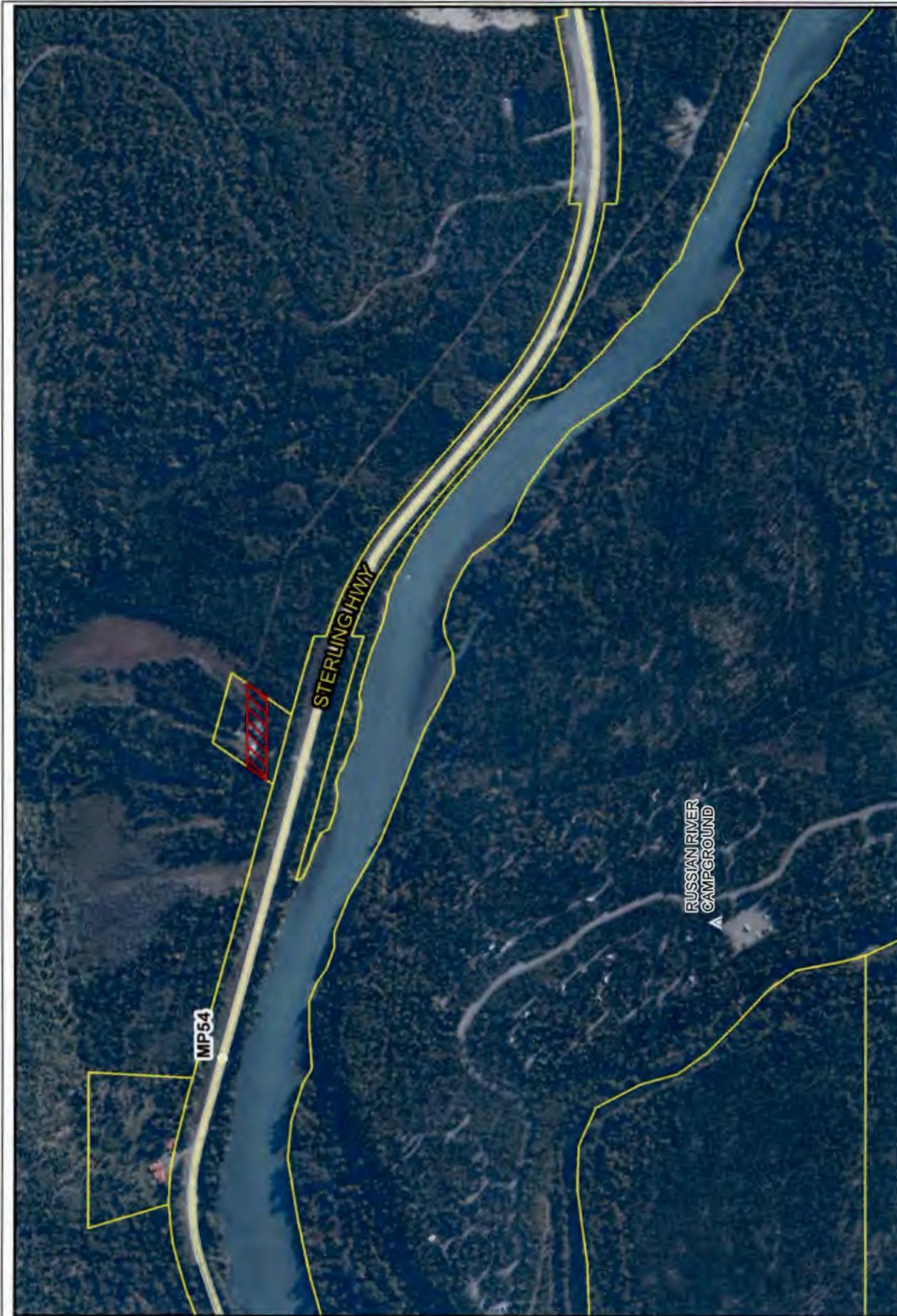
PClements, KPB
Date: 11/19/2019
Imagery: 2016

 Section Line Easement Vacation



The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.





The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.



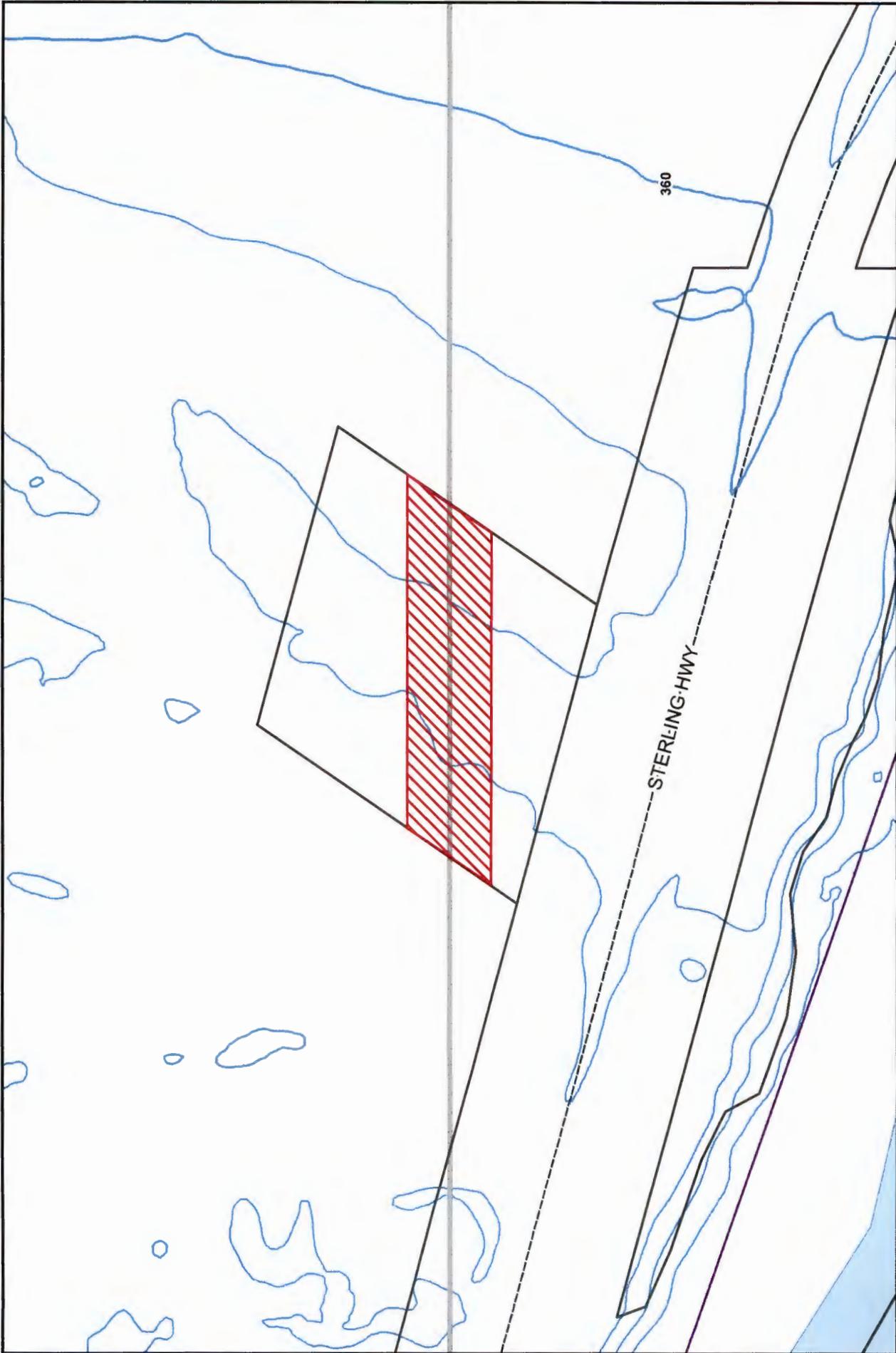
Aerial View



 Section Line Easement Vacation

PClements, KP
 Date: 11/19/2019
 Imagery: 2016

Four Foot Contours



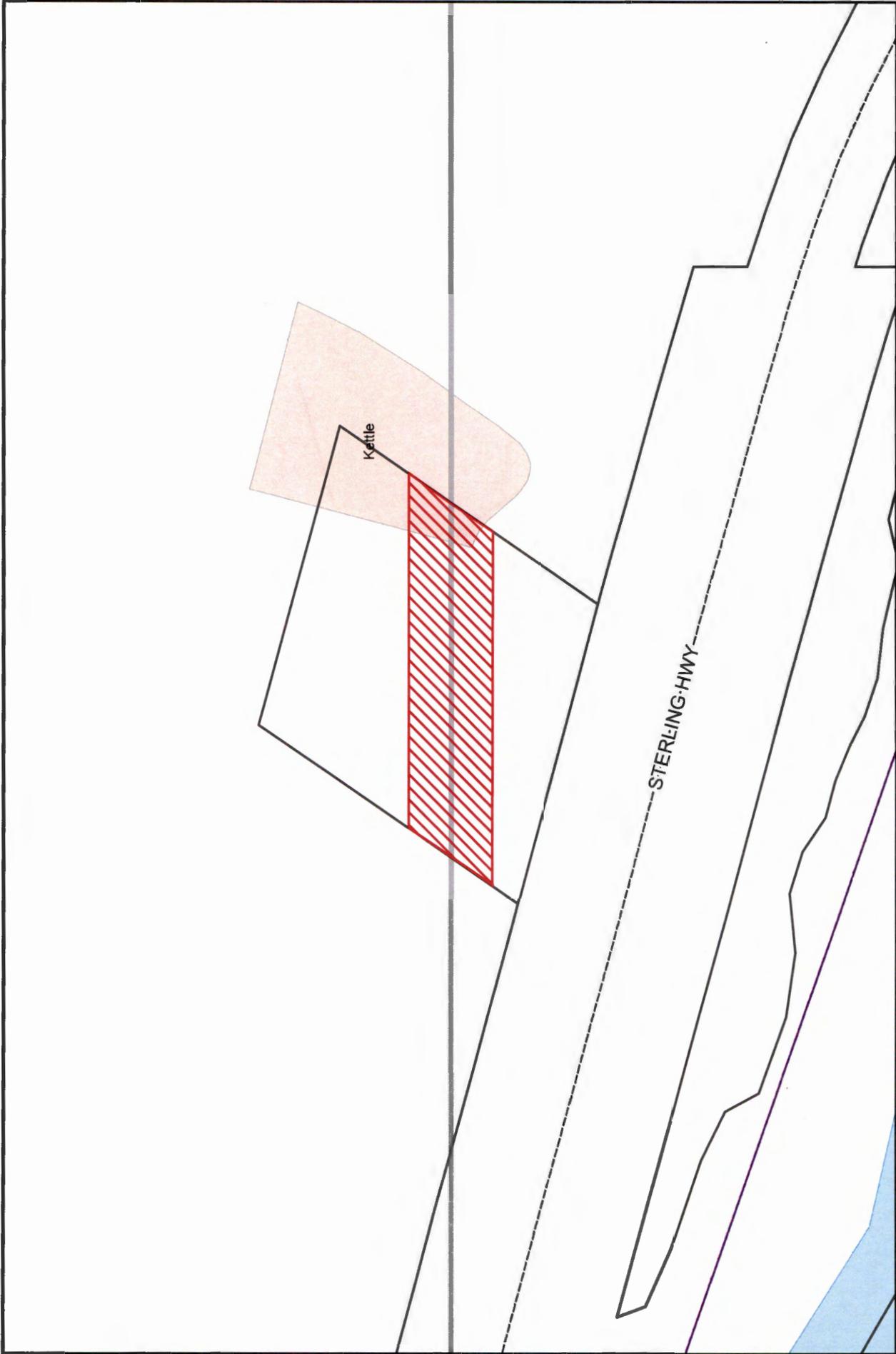
The information depicted hereon is for graphical representation only of best available sources. The Kenil Peninsula Borough assumes no responsibility for any errors on this map.



JReif

Date: 11/24/2019

Kenai Watershed Forum Wetlands

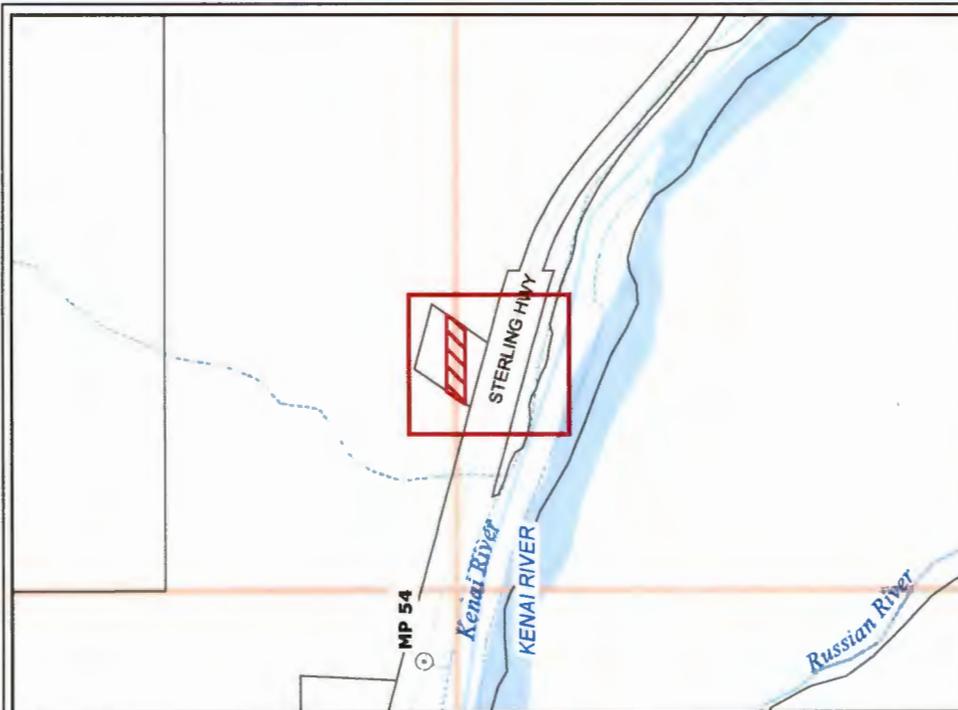


Date: 11/24/2019

JReif



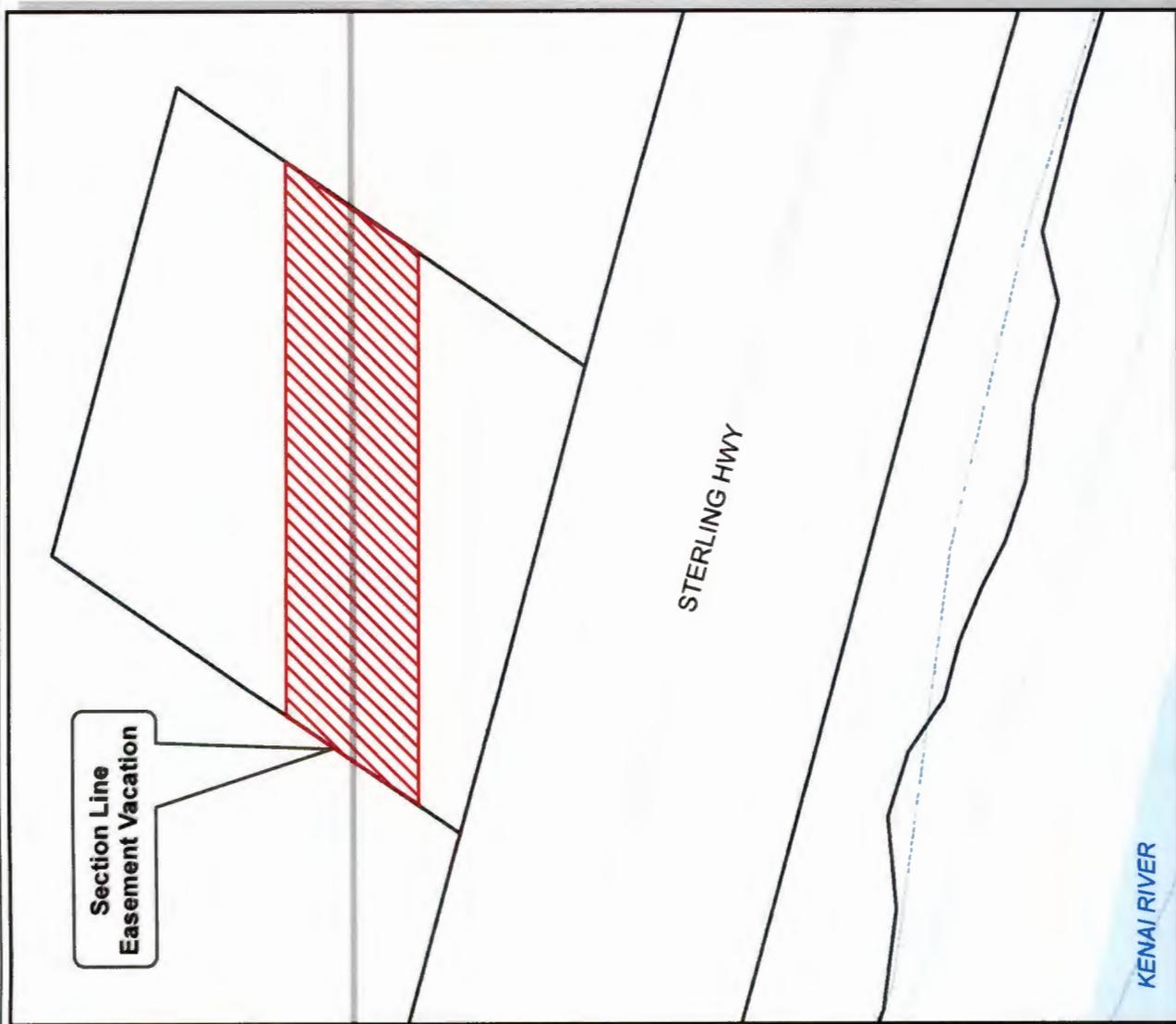
The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on the map.



KPB 2019-138V
T05N R04W S27
T05N R04W S34
Cooper Landing



PClements, KPB
 Date: 11/19/2019



The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.



**STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND AND WATER**

Preliminary Finding & Decision

Petitioner: Mary Dreifuert

Section Line Easement Vacation

EV-3-302

Petitioned Action:

The proposed action consists of vacating the 50-foot wide section-line easements (SLEs) lying within USS 14477 as depicted in Attachment A. This action lies in sections 27 & 34, Township 5 North, Range 4 West, Seward Meridian.

The reasons cited by the applicant:

- House and other structures are located within the easement.

Legal Authority:

AS 19.10.010, AS 38.05.035, AS 38.05.945, 11 AAC 51.025, 11 AAC 51.065 and 11 AAC 51.100

The Alaska Department of Transportation and Public Facilities (DOT/PF) and the Department of Natural Resources (DNR) have concurrent authority for approving the vacation of SLEs.

Administrative Record:

The DNR Survey Case File EV-3-302 constitutes the administrative record used for the basis of this decision.

Borough:

The proposed action is located within the Kenai Peninsula Borough (KPB).

State Easement Interest:

50-foot wide section-line easement exists within the subject properties pursuant to AS 19.10.010 (See Discussion 1).

Underlying Interest:

The petitioner owns the estate underlying the SLEs proposed for vacation.

Alternate Route:

The proposed alternate access is the constructed Sterling Highway Right-of-way (ROW). Public access to the adjoining and adjacent parcels is not negatively affected by this action.

Land Management Policies:

1) Pursuant to 11 AAC 51.065, before any vacation, modification, or relocation of a public easement, the petitioner must demonstrate to the satisfaction of the department that equal or better access is available. Equal or better access must be access that is:

- protected by an easement of record that is adequately wide for the purpose; if the easement of record is new, the petitioner must arrange for a note in the vacation document to be recorded that identifies the new easement as a replacement for the vacated easement; and,
- at least equally usable, considering length, type of terrain, and level of improvement, as the easement to be vacated; if development or improvement is needed to make the replacement easement at least equally usable, the petitioner must arrange for the development or improvement to be completed before the vacation takes effect.
- the department will determine if the vacation is in the State's best interest

Public Use Patterns:

A field inspection was not conducted; therefore, it is unknown whether vehicles, pedestrians or other public interests have been or are currently using those portions of the SLEs proposed to be vacated. However, due to the nature of the section line that these 50' SLEs are attached to (*i.e. being an unconstructed protracted [unsurveyed] section line, located in a remote area, more than two miles from the nearest monumentation that controls the location of this section line*) it is highly unlikely that the general public or any public interests would know the exact location of this 100-foot wide SLE corridor. The subject SLEs are unconstructed.

Practicality of Use:

Section-line easements along protracted section lines are not practical to use for legal public access until the location of the section line has been determined by an official survey. To avoid trespass issues the exact location of the easement must be known on the ground before it can be used. In addition, pursuant to Footnote 15 of the 1969 Opinions of the Attorney General No. 7, "a section line right-of-way [SLE] attaches to the protracted section line subject to subsequent conformation with the official public land survey" (emphasis added). Only then do public access rights pursuant to AS 19.10.010 attach to the section line.

The subject SLE's attached to the protracted section line in accordance with AS 19.10.010 (*see the Discussion Section below*) when U.S. Survey No. 14477 was conveyed directly to the State of Alaska prior to conveyance to the petitioner. USS 14477 is an inholding currently surrounded by the Chugach National Forest. Its southerly boundary is also contiguous with the northerly bounds of the Sterling Highway right-of-way; therefore, the parcel has legal access. Lands in the NW 1/4 of said Section 34 were selected by the State under NFCG 52 but have not received Tentatively Approval yet. The SLEs proposed to be vacated are approximately 100' to 200' north of, are parallel – to some extent – to the Sterling Highway, and they dead-end at the boundaries of USS 14477. SLE's do not exit within the national forest; therefore, this isolated 300 +/- foot segment of SLE appears to serve no practical purpose. Sufficient public access exists – via the highway right-of-way – to provide access to adjacent Chugach National Forest lands.

Agency Review:

Initial Agency review of the proposed action began on December 19, 2018 and concluded July 19, 2019. Agencies notified included Department of Transportation/Public Facilities (DOT/PF) Central Region, Alaska Department of Fish and Game (ADFG), DNR Division of Mining, Land and Water – South Central Regional Office (SCRO), Alaska Mental Health Trust Land Office (MHTLO) and DNR Division of Parks and Outdoor Recreation (DPOR).

Agency Comments:

1. All agencies submitted comments of non-objection.
2. No other comments or objections on the proposed action were received.

Discussion:

1. **Determination of the existence of the Section-Line Easements:**

- a. The section-line common to Sections 27 & 34, T5N, R4W, SM was not surveyed by the Rectangular Survey Plat for Partially Surveyed Township 5 North, Range 4 West, Seward Meridian, Alaska accepted by BLM December 24, 1998 and officially filed on January 22, 1999. Said section line remains a protracted (unsurveyed) line.
 - b. AS 19.10.010 **Dedication of land for public highways** states in part “**A tract 100 feet wide between each section of land owned by the state** (emphasis added) or acquired from the state, and a tract four rods wide between all other sections in the state, is dedicated for use as public highways...”
 - c. The lands underlying the SLEs proposed to be vacated were conveyed to the State of Alaska by Patent No. 50-2018-0038 on January 31, 2018.
 - d. **For surveyed or unsurveyed land owned by the state on or after July 1, 1960, the width, as identified in AS 19.10.010, is 50 feet** (11 AAC 51.025, editor’s note #7).
2. The proposed alternate access is reasonably comparable and meets the requirements for vacation of a portion of the subject section-line easement pursuant to 11 AAC 51.065. The proposed alternate route is adequately wide to satisfy all present and reasonable foreseeable uses. Continued access to adjacent lands is ensured by the Sterling Highway ROW.
 3. Pursuant to 11 AAC 51.065(e)(1), the department will give consideration to the recommendations of the KPB Platting Board regarding this action when a copy of the Approved Minutes are received at DNR.

Approval of the proposed action is contingent upon the following conditions:

1. Pursuant to AS 38.05.945, a Public Notice must be completed. The Department of Natural Resources may modify the decision after analyzing public comments. The advertising cost for Public Notice is at the expense of the applicant.
2. Comply with KPB’s conditions of approval unless waived by the Director, DMLW.
3. Document the existence of an easement along the powerline, or dedicate an easement of sufficient width.

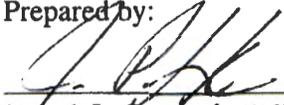
4. A final plat (owner signed / surveyor sealed Mylar) must be submitted to DNR within two years from the date of approval of the Final Decision unless extended by DMLW, Survey Section.

5. Submittal of a Certificate to Plat, current within 90-days, with the final plat.

Recommendation:

Based on our findings, the applicant meets DNR's requirements to vacate the subject section-line easements. The proposed vacation may be in the state's best interest. Therefore, the Division of Mining, Land and Water, Survey Section recommends approval of this action and may proceed with adjudication and public notice in accordance with AS 38.05.945.

Prepared by:



Joseph L. Poydack, Adjudicator

10/8/2019

Date

Approved by:



Gwen M. Gervelis, PLS
Chief, Survey Section

10/8/2019

Date

PUBLIC NOTICE:

**Notice of Preliminary Decision
Section Line Easement Vacation
EV-3-302**

Per 11 AAC 51.065, the Department of Natural Resources, Division of Mining, Land and Water has made a Preliminary Decision (PD) giving contingent approval to a petition vacating the 50-foot wide section-line easements lying within USS 14477 as depicted in Attachment A. This action lies in sections 27 & 34, Township 5 North, Range 4 West, Seward Meridian, Alaska.

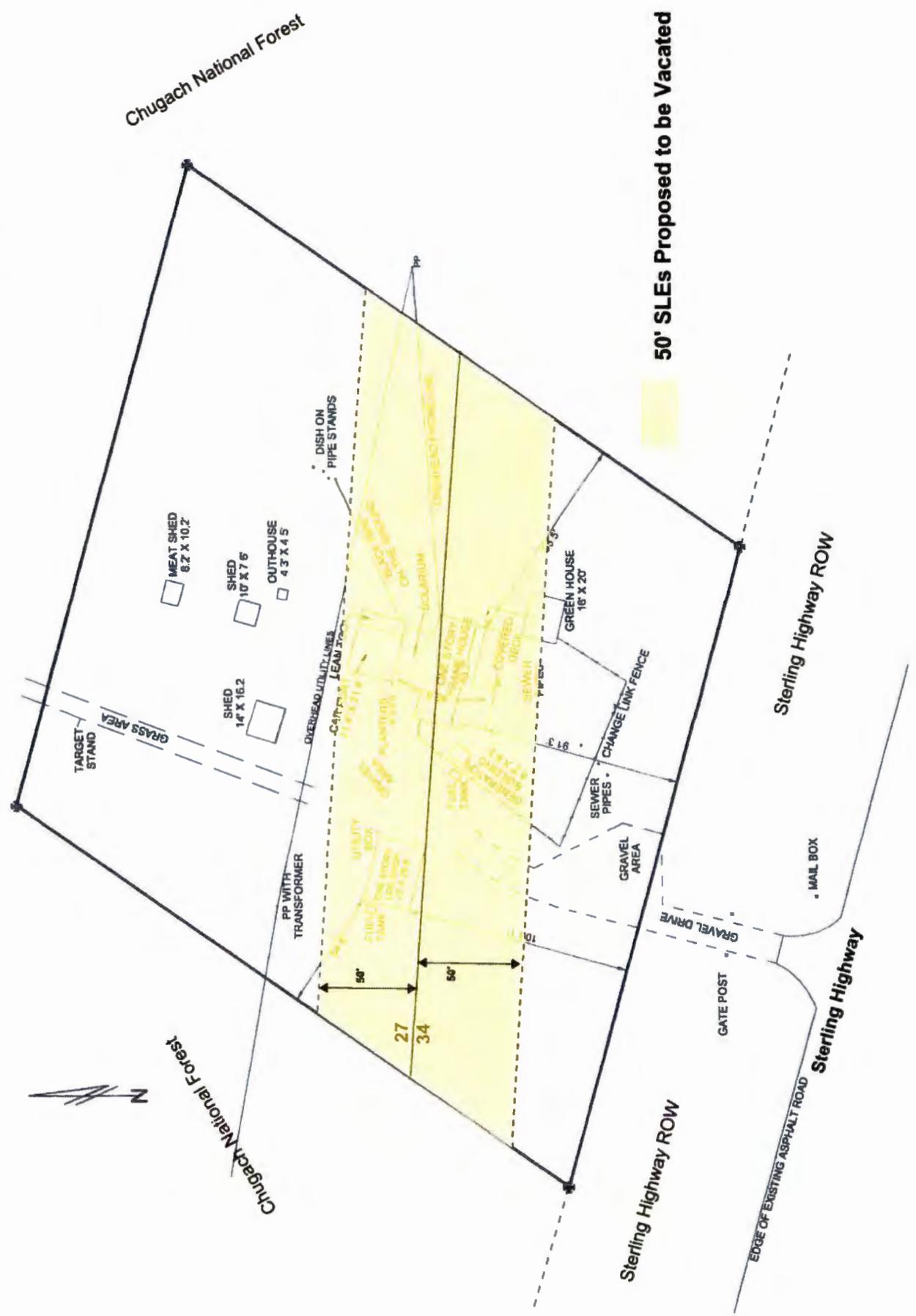
The public is invited to comment on the PD. Copies are available from DMLW, 550 W. 7th Avenue, Suite 650, Anchorage, AK 99501-3576 or <https://aws.state.ak.us/OnlinePublicNotices/Login.aspx>. All comments must be received in writing at DMLW by 5:00 p.m. on November 11, 2019. **To be eligible to appeal, one must respond in writing during the comment period.** If public comment analysis indicates the need for significant changes to the PD, additional public notice will be given. If no significant change is required, the PD, including any minor changes, will be issued as a Final Decision (FD). To obtain PD/FD copy, reference case number EV-3-302; include date, your email and mailing address and telephone number. If you have any questions, contact DNR, Joseph L. Poydack, 375-7733 or joseph.poydack@alaska.gov.

DMLW reserves the right to waive technical defects in this publication.

Those with audio impairments may call Anchorage DNR Public Information Center, 10-5, M-F, TDD#269-8411.

EV 3-302 Attachment A

Sections 27 & 34, T5N, R4W, SM



50' SLEs Proposed to be Vacated

3. J. Cadieux asked about the rock fall that exists on the Seward Highway and whether the lessons from that are taken in consideration on this project.

a. S. Holland said, yes. There are many controls included since this is new design rather than retrofit like the Seward Highway was. Things like rock catchment are being taken into consideration.

Regular meeting resumed.

8. OLD BUSINESS - none

9. NEW BUSINESS

a. Section line easement vacation

Public notice is hereby given that a petition was received on 11/18/2019 to vacate a Section Line easement in the Cooper Landing area. Location and request: Vacates a 100-foot wide Section Line Easement running East to West located 50-feet in Section 27 Township 05 North Range 04 West and 50-feet within Section 34 Township 05 North Range 04 West within US Survey 14477 as dedicated on Section Line Easement Vacation Plat associated with US Survey No 14477. The right-of-way being vacated is developed and located within the US Survey No 14477 of Section 34, Township 5 North, Range 4 West and Section 27, Township 5 North, Range 4 West, Seward Meridian, Alaska, within the Kenai Peninsula Borough. KPB File 2019-138V Purpose as stated in petition: The justification for vacating the section line easements is that it will not change the existing highway nor will it keep anyone from using the adjoining properties. Because the Sterling Highway has been in place for many years, the section line between sections 27 and 34 Township 5 North Range 4 West, Seward Meridian, in this area will never be needed for a right of way. The existing Sterling Highway is parallel to the southern boundary of this property and when this property was surveyed it was staked with enough room for expansion of the existing highway if it should be needed. Chugach National Forest is on the other three sides of this property so access to any of the land around it is not a problem. And as you can see on the drawing of the USS No 14477, the 100' section line easement covers most of the improvements on this property.

- C. Degernes stated that in this particular case the public does not lose out but, in general, granting vacation requests to section lines requires careful consideration. If impacts are made, the loss of the easement should be compensated to the public. Although it is hard to see reasons why not to grant this particular vacation, there are many times the public may have more interest. It is a fundamental issue of giving up the public's rights. If there was an easement bank that provided equal or better access someplace else it might be easier to agree to some vacations.
- K. Recken asked why vacating the easement is needed.
 - M. Mueller cannot speak to this specifically but offered that in general easements on parcels can mean that it may be hard to get financing or to sell to someone who needs financing etc.
- C. Degernes moves to approve the vacation request with the caveat that in this case the public's loss is minimal but future

vacation requests must each be scrutinized to ensure the public's interest is not outweighed by the applicant's desires for the vacation. Generally, the applicant should be required to provide compensation of equal or greater access than the vacation. H. Harrison seconds, all approve.

- b. Ordinance: Amendment to Title 17 concerning KPB employees participating in borough land sales
 - i. C. Degernes moves to support this ordinance change as proposed. K. Recken seconds. All approve.
- c. Ordinance: Amendment to Title 20 concerning the definition of subdivision
 - i. C. Degernes moves to support this ordinance change as proposed. Y. Galbraith seconds. All approve.

10. PLAT REVIEW – none.

11. INFORMATION and ANNOUNCEMENTS

- a. D. Story encouraged everyone to attend the Walkable and Trails Committees' meeting tomorrow night, December 5th, at 6:00pm.

12. COMMISSIONER'S COMMENTS - none

13. ADJOURNMENT – D. Story moves to adjourn. K. Recken seconds, all approve.

For more information or to submit comments please contact:

David Story, Secretary Treasurer P.O. Box 694, Cooper Landing,
99572 CooperLandingAPC@gmail.com

MEMORANDUM

TO: Kelly Cooper, Assembly President
Members, Kenai Peninsula Borough Assembly

THRU: Charlie Pierce, Kenai Peninsula Borough Mayor 

DATE: January 7, 2020

RE: Appointments to the Board of Equalization

Pursuant KPB 5.12.052(A), I hereby submit my recommendation for confirmation by the Borough Assembly, of the following appointments to the Board of Equalization.

The following applicants meet the required qualifications, and are residents of the Kenai Peninsula Borough. Please find the attached applications for your review:

<u>Applicant</u>	<u>Seat</u>	<u>Term Expires</u>
Brent Johnson	E	December 31, 2022
Dale Lee Bagley	B	December 31, 2022

Thank you.

Kenai Peninsula Borough
Office of the Borough Clerk

MEMORANDUM

TO: Charlie Pierce, Mayor *dm*
THRU: Johni Blankenship, Borough Clerk *(JB)*
FROM: Tatyana Shassetz, Borough Clerk Secretary *(TS)*
DATE: December 9, 2019
RE: Applications for Re-Appointment to the Board of Equalization

KPB 5.12.052 states in part, "Members shall be appointed by the Mayor and confirmed by the Assembly on the basis of their expertise in real and personal property appraisal, the real estate market, the personal property market, and other fields related to their functions as board members. Additionally, each member shall be a resident of the Kenai Peninsula Borough."

The following applicants have submitted an application for consideration for re-appointment to the Board of Equalization:

<u>Applicant</u>	<u>Board Seat</u>	<u>Term Expires</u>
Brent Johnson	Seat E	December 31, 2022
Dale Lee Bagley	Seat B	December 31, 2022

Your consideration is appreciated.

Shassetz, Tatyana

From: Blankenship, Johni
Sent: Friday, December 06, 2019 10:17 AM
To: Shassetz, Tatyana
Subject: FW: New submission from 'Board of Equalization Membership Application'

From: Kenai Peninsula Borough [mailto:webmaster@borough.kenai.ak.us]
Sent: Friday, December 06, 2019 9:54 AM
To: Blankenship, Johni <JBlankenship@kpb.us>; Turner, Michele <MicheleTurner@kpb.us>
Subject: New submission from 'Board of Equalization Membership Application'

Seat Choice

Seat E – Term to Expire December 31, 2022

Name

Brent Johnson

Mailing Address

20773 Porcupine Ln

Mail_City

Clam Gulch

Mail_State

AK

Mail_Zip

99568-9706

Residence Address

Res_City

Res_State

Res_Zip

Email

ragweb@icloud.com

Work Phone

9072624763

Home Phone

262-4763

Mobile

398-0918

Expertise

I've served on the BOE since about 2014 and currently serve as Vice-chair. I've also worked for land surveyors between about 1971-2010.

UploadResume

Shassetz, Tatyana

From: Blankenship, Johni
Sent: Friday, December 06, 2019 10:17 AM
To: Shassetz, Tatyana
Subject: FW: New submission from 'Board of Equalization Membership Application'

From: Kenai Peninsula Borough [mailto:webmaster@borough.kenai.ak.us]
Sent: Friday, December 06, 2019 10:15 AM
To: Blankenship, Johni <JBlankenship@kpb.us>; Turner, Michele <MicheleTurner@kpb.us>
Subject: New submission from 'Board of Equalization Membership Application'

Seat Choice

Seat B – Term to Expire December 31, 2022

Name

Dale Lee Bagley

Mailing Address

325 Endicott dr

Mail_City

Soldotna

Mail_State

AK

Mail_Zip

99669

Residence Address

Res_City

Res_State

Res_Zip

Email

dale@redoubtrealty.com

Work Phone

Home Phone

Mobile

9073981865

Expertise

Been on the Board of Equalization for 4- 5 years and have been a Realtor for most of the last 25 years. Also Served on the BOE for three years back in the 90's when serving on the Borough Assembly.

UploadResume

Kenai Peninsula Borough
Office of the Borough Mayor

MEMORANDUM

TO: Kelly Cooper, Assembly President
Members of the Kenai Peninsula Borough Assembly

FROM: Charlie Pierce, Kenai Peninsula Borough Mayor *cp*

DATE: January 7, 2020

RE: KPB Service Area Board Appointments

Pursuant to 16.41.020(A)(B), 16.50.080, 16.55.080, please find my recommendations for confirmation by the Assembly, of the following appointments to the following Service Area Boards. The applicants have been verified as registered voters and reside within the service areas to be represented. Attached for your review is the request for appointments:

<u>Road Service Area</u>	<u>Board Seat</u>	<u>Term to Expire</u>
Mike Tauriainen	At-Large	September, 2022
<u>Seward-Bear Creek Flood S.A.</u>		
Edward Decastro	Seat C	October, 2022
<u>Seldovia Recreation S.A.</u>		
Mark Janes	Seat A	October, 2022

**Attachments: Application or Letter for Appointment
Clerks Verification**

MAYOR'S REPORT TO THE ASSEMBLY

TO: Kelly Cooper, Assembly President
Members, Kenai Peninsula Borough Assembly

FROM: Charlie Pierce, Kenai Peninsula Borough Mayor 

DATE: January 7, 2020

Assembly Request / Response

None

Agreements and Contracts

- a. Native Village of Tyonek Snow Removal Sole Source
- b. Authorization to Award a Contract for ITB20-011 Nikiski Fire Station #3 to F-E Contracting, Inc., Palmer Alaska.
- c. Authorization to Award a Contract for ITB20-008 Anchor Point Fire Station Boiler Replacement to Peninsula Plumbing & Heating, Inc., Soldotna Alaska.
- d. Authorization to Award a Contract for RFP20-008 South Peninsula Hospital CT Remodel to Hue Design, Inc.
- e. Authorization to Award a Contract for ITB20-012 Kenai Middle School Intensive Needs Remodel to Orion Construction, Inc., Wasilla Alaska.
- f. External Mail Gateway Sole Source Waiver with Excel Micro

Other

- a. Budget Revisions – November 2019
- b. Revenue-Expenditure Report – November 2019

Kenai Peninsula Borough Maintenance

MEMORANDUM

TO: Charlie Pierce, Borough Mayor
THRU: John Hedges, Purchasing & Contracting Director *JH*
FROM: Scott Griebel, Maintenance Director *SG*
DATE: November 21, 2019
RE: Native Village of Tyonek Snow Removal Sole Source

Under Section 5.28.280a of the Borough code, it is requested that the Native Village of Tyonek be authorized as the sole provider of Snow removal services at the Tebughna School for the current 2019-2020 school year. The cost, as quoted, is \$567.50 per snow removal service visit.

The Maintenance department has been informed by the previously awarded contractor (BJS Enterprises) that they would not be interested in continuing (extending) their service contract for the remaining additional year (to rebid fall 2020). Via direct local inquiry by our maintenance representative, it is apparent that there are no other equipment operations groups in that community to perform the required work (BJS has been the only service bidder for many years). Maintenance has approached the Tebughna Village (which manages the municipal roads snow removal all around the school site) about bidding to pick up the school site service. They have agreed to the sum of \$567.50 per service response. This represents a \$455.65 per service reduction over last years contracted agreement. It is my belief that it would be in the best interest of the Borough to enter into agreement with the Native Village of Tyonek. They represent both reliability and a cost savings in that they are already responding to snow service of the adjacent roadways and their bid is a nearly 50% reduction over the former service contractor.

Your approval of this request will allow the Borough to enter into a service agreement with the Native Village of Tyonek for snow removal services at the Tebughna School. Please see attached quote.

This office is available for any questions regarding this request.

Approved: *CP* Date: 11/25/2019
Charlie Pierce, Mayor

FINANCE DEPARTMENT FUNDS VERIFIED	
Acct. No: 241.41010.43764	
Amount: \$6,500	
By: <u><i>PP</i></u>	Date: <u>11/15/19</u>

Griffith, Christina

From: NVT Contractors <nvtconst9@gmail.com>
Sent: Tuesday, November 12, 2019 12:11 PM
To: Griffith, Christina
Cc: nvtroadsoperator@gmail.com; Janelle Baker
Subject: <EXTERNAL-SENDER>estimate

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.

I don't know how many hours or when it will snow but here is the estimate for a day

Operator \$60.00 hr x 4 hrs day = \$240.00
Loader \$70.00 hr x 4 hrs day = \$280.00
10 gallons a day x 4.75 a gallon= \$47.50
Total per day \$567.50

If I can do anything else please let me know, we have labors also if needed.

Debbie J Standifer
Native Village of Tyonek
Equipment Coordinator
907)583-2111
email nvtconst9@gmail.com

Kenai Peninsula Borough
PURCHASING AND CONTRACTING

MEMORANDUM

TO: Charlie Pierce, Mayor
THRU: John Hedges, Purchasing & Contracting Director *JH*
FROM: Carmen Vick, Project Manager *CVick*
DATE: December 10, 2019
RE: Authorization to Award a Contract for ITB20-011
Nikiski Fire Station #3

The Purchasing and Contracting Office formally solicited and received bids for ITB20-011 Nikiski Fire Station #3. Bid packets were released on October 3, 2019 and the Invitation to Bid was advertised in the Peninsula Clarion and the Anchorage Daily News on October 3, 2019.

The project consists of the following: Construction of a new, 7,600 SF square foot, two-story building to house a Fire Department. The project includes (5) vehicle bays serviced by (5) sectional overhead doors; an office, mezzanine exercise room, training room, storage, decontamination area, mechanical rooms; upstairs living quarters and kitchen. The site is undeveloped and will require an on-site well and septic system. Site improvements also include a new paved driveway, parking and fire station apron.

On the due date of November 6, 2019 five (5) bids were received and reviewed to ensure that all the specifications and delivery schedules were met. The low bid of \$4,015,000.00 was submitted by F-E Contracting, Inc., Palmer Alaska.

Your approval for this bid award is hereby requested. Funding for this project is in account number 441.51110.19411.49101.

CP

Charlie Pierce, Mayor

12/11/2019

Date

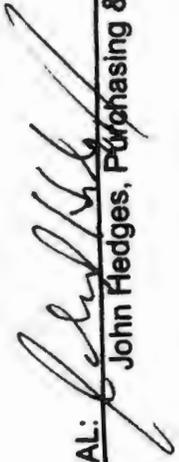
FINANCE DEPARTMENT FUNDS VERIFIED	
Acct. No.	441.51110.19411.49101
Amount	\$4,015,000.00
By: <i>RP</i>	Date: 12/10/19

**KENAI PENINSULA BOROUGH
PURCHASING & CONTRACTING**

BID TAB FOR: ITB20-011 Nikiski Fire Station #3

CONTRACTOR	LOCATION	BASE BID	ADDITIVE ALTERNATE	TOTAL BID
F-E Contracting, Inc.	Palmer, AK	\$3,926,000.00	\$89,000.00	\$4,015,000.00
G & S Construction, Inc.	Soldotna, AK	\$3,954,000.00	\$110,000.00	\$4,064,000.00
Blazy Construction, Inc.	Soldotna, AK	\$4,076,615.00	\$122,000.00	\$4,198,615.00
Dawson Construction	Bellingham, WA	\$4,147,000.00	\$100,000.00	\$4,247,000.00
Orion Construction, Inc.	Soldotna, AK	\$4,219,400.00	\$94,400.00	\$4,313,800.00

DUE DATE: November 6, 2019

KPB OFFICIAL: 
John Hedges, Purchasing & Contracting Director

Kenai Peninsula Borough
PURCHASING AND CONTRACTING

MEMORANDUM

TO: Charlie Pierce, Mayor

THRU: John Hedges, Interim Purchasing & Contracting Director *JH*

FROM: Carmen Vick, Project Manager *Carmen Vick*

DATE: December 10, 2019

RE: Authorization to Award a Contract for ITB20-008 Anchor Point Fire Station Boiler Replacement

The Purchasing and Contracting Office formally solicited and received bids for ITB20-008 Anchor Point Fire Station Boiler Replacement. Bid packets were released on September 24, 2019 and the Invitation to Bid was advertised in the Peninsula Clarion and the Anchorage Daily News on September 24, 2019 and the Homer News on September 26, 2019.

The project consists of procurement of new and demo / replacement of two (2) existing cast iron boilers. All work to be done per owner provided construction documents. Coordination with KPBC and the Fire Department will be required. The building is in use and will remain in use throughout the work and a temporary source of heating is to be installed as part of the scope of work.

On the due date of October 14, 2019 five (5) bids were received and reviewed to ensure that all the specifications and delivery schedules were met. The low bid of \$75,990.00 was submitted by Peninsula Plumbing & Heating, Inc., Soldotna, Alaska.

Your approval for this bid award is hereby requested. Funding for this project is in account number 444.51410.19443.43011.

CP

Charlie Pierce, Mayor

12/11/2019

Date

FINANCE DEPARTMENT FUNDS VERIFIED	
Acct. No.	<u>444.51410.19443.43011</u>
Amount	<u>\$75,990.00</u>
By: <i>PE</i>	Date: <i>12/10/19</i>

**KENAI PENINSULA BOROUGH
PURCHASING & CONTRACTING**

BID TAB FOR: ITB20-008 Anchor Point Fire Station Boiler Replacement

CONTRACTOR	LOCATION	BASE BID
Peninsula Plumbing & Heating, Inc	Soldotna, AK	\$75,990.00
JGH Plumbing & Heating, Inc.	Palmer, AK	\$82,662.00
Eayrs Plumbing and Heating	Homer, AK	\$109,008.00
Norcoast Mechanical, Inc.	Anchorage, AK	\$116,000.00
Weldin Construction	Palmer, AK	\$167,049.21

DUE DATE: October 14, 2019

KPB OFFICIAL: 
John Hedges, Purchasing & Contracting Director

Kenai Peninsula Borough
Purchasing & Contracting

MEMORANDUM

TO: Charlie Pierce, Mayor
THRU: Andrew Walsh, Project Manager *AW*
FROM: John Hedges, Purchasing & Contracting Director *JH*
DATE: December 17, 2019
RE: Authorization to Award a Contract for RFP20-008 South Peninsula Hospital CT Remodel

On November 12, 2019 the Kenai Peninsula Borough Purchasing & Contracting Department formally solicited proposals for RFP20-008 South Peninsula Hospital CT Remodel. The request for proposals was advertised in the Peninsula Clarion on November 12, 2019 and the Homer News on November 14, 2019.

The project consists of renovating the existing CT space and will consist of design and construction administration services.

On the due date of November 26, 2019, three (3) proposals were received and reviewed by a review committee as follows:

<u>FIRMS</u>	<u>TOTAL SCORE</u>
Hue Design, Inc.	406
NorthForm Architecture	399
Architects Alaska, Inc.	349

Funding of this contract will be charged to account number 491.81210.20SHC.49311.

Ch

Charlie Pierce, Mayor

12/18/2019
Date

FINANCE DEPARTMENT FUNDS VERIFIED	
Acct. No.	<u>491.81210.20SHC.49311</u>
Amount	<u>\$96,700.00</u>
By: <i>AW</i>	Date: <u>12/16/19</u>

**Kenai Peninsula Borough
PURCHASING AND CONTRACTING**

MEMORANDUM

TO: Charlie Pierce, Mayor
THRU: John Hedges, Interim Purchasing & Contracting Director *JH*
FROM: Carmen Vick, Project Manager *CVick*
DATE: December 11, 2019
RE: Authorization to Award a Contract for ITB20-012 Kenai Middle School Intensive Needs Remodel

The Purchasing and Contracting Office formally solicited and received bids for ITB20-012 Kenai Middle School Intensive Needs Remodel. Bid packets were released on November 6, 2019 and the Invitation to Bid was advertised in the Peninsula Clarion on November 6, 2019.

The remodel project will modify approx. 1215 SF of existing classroom space to accommodate the KPB School Districts Special Needs Program. The new space(s) will include a Kitchen, Bathroom / Changing room, Storage room and cabinetry, Quiet room, Laundry room and flooring.

On the due date of November 26, 2019 two (2) bids were received and reviewed to ensure that all the specifications and delivery schedules were met. The low bid of \$247,888.00 was submitted by Orion Construction, Inc., Wasilla, Alaska.

Your approval for this bid award is hereby requested. Funding for this project is in account number 400.73030.20PRP.49125.

Jannet Barden For
Charlie Pierce, Mayor

12/12/2019
Date

FINANCE DEPARTMENT FUNDS VERIFIED	
Acct. No.	<u>400.73030.20PRP.49125</u>
Amount	<u>247,888.00</u>
By: <i>AP</i>	Date: <u>12/11/19</u>
<i>3/8</i>	

**KENAI PENINSULA BOROUGH
PURCHASING & CONTRACTING**

BID TAB FOR: ITB20-012 Kenai Middle School Intensive Needs Remodel

CONTRACTOR	LOCATION	BASE BID
Orton Construction, Inc.	Wasilla, AK	\$247,888.00
Building Specialties, Inc.	Anchor Point, AK	\$289,000.00

DUE DATE: November 26, 2019

KPB OFFICIAL: 
John Hedges, Purchasing & Contracting Director

Kenai Peninsula Borough
Purchasing & Contracting Department

MEMORANDUM

TO: Charlie Pierce, Borough Mayor *CP*
THRU: Ben Hanson, Information Technology Director *BH*
FROM: John Hedges, Purchasing & Contracting Director *JH*
DATE: December 16, 2019
RE: External Mail Gateway Sole Source Waiver

The Kenai Peninsula Borough utilizes an external email/spam gateway provided by Google. This service was established approximately 15 years ago when GCI was our internet service provider. The service transitioned to ACS some 12 years ago when we moved our internet service to ACS.

On approximately 12/15/19 (this Sunday), Google terminated the service that provided our external mail delivery. In order to maintain business email continuity, KPB will need to establish a contract with Excel Micro directly. This will allow re-activation of our Google Suite service, and will re-establish external email communication. Executing as a sole source with Excel Micro will provide quickest re-activation of services with the least probability of email and configuration loss.

Excel Micro contract is for \$22,608 for a 1 year contract, billed monthly.

Approved: *John P. Brunton* For *12-16-2019*
Charlie Pierce, Mayor Date

FINANCE DEPARTMENT FUNDS VERIFIED	
Acct. No.	<u>100.11231.00000.43019</u>
Amount	<u>\$22,608.00</u>
By: <u><i>BB</i></u>	Date: <u><i>12/16/19</i></u>

MEMORANDUM

TO: Kelly Cooper, Assembly President
Members of the Kenai Peninsula Borough Assembly

THRU: Charlie Pierce, Borough Mayor *CP*

THRU: Brandi Harbaugh, Finance Director *BH*

FROM: Sarah Hostetter, Payroll Accountant *SH*

DATE: December 3, 2019

RE: Budget Revisions – November 2019

Attached is a budget revision listing for November 2019. The attached list contains budget revisions between major expenditure categories (i.e., maintenance & operations and capital outlay). Other minor transfers were processed between object codes within major expenditure categories.

ANCHOR POINT EMERGENCY SERVICES

To purchase Tyler software for mobile CAD system.

209-51410-00000-43011 (Contract Services)		\$5,500.00
209-51410-00000-42120 (Computer Software)	\$5,500.00	

ASSESSING - ADMINISTRATION

To cover cost of printer replacement.

100-11510-00000-42210 (Operating Supplies)		\$600.00
100-11510-00000-42410 (Small Tools and Minor Equipment)		\$500.00
100-11510-00000-48710 (Minor Office Equipment)	\$1,100.00	

FINANCE DEPARTMENT

To cover costs for iPad replacement.

100-11430-00000-40110 (Regular Wages)		\$1,000.00
100-11410-00000-48710 (Minor Office Equipment)	\$1,000.00	

ROADS DEPARTMENT

Funds for impound yard construction.

236-33950-00000-50238 (Transfer Riad Match Fund)		\$25,385.00
236-33950-00000-43011 (Contract Services)	\$25,385.00	

Kenai Peninsula Borough
Finance Department

MEMORANDUM

TO: Kelly Cooper, Assembly President
Members of the Kenai Peninsula Borough Assembly

THRU: Charlie Pierce, Borough Mayor *CP*

THRU: Brandi Harbaugh, Finance Director *BH*

FROM: Sarah Hostetter, Payroll Accountant *SH*

DATE: December 3, 2019

RE: Revenue-Expenditure Report – November 2019

Attached is the Revenue-Expenditure Report of the General Fund for the month of November 2019. Please note that 41.67% of the year has elapsed, 67.33% of budgeted revenues have been collected, and 35.44% of budgeted expenditures have been made.

KENAI PENINSULA BOROUGH
 Revenue Report
 For the Period
 November 1 through November 30, 2019

ACCOUNT NUMBER	DESCRIPTION	ESTIMATED REVENUE	YEAR TO DATE RECEIPTS	MONTH TO DATE RECEIPTS	VARIANCE	% COLLECTED
31100	Real Property Tax	\$ 30,759,296	\$ 28,779,545	\$ 5,769,909	\$ (1,979,751)	93.56%
31200	Personal Property Tax	1,988,657	2,078,060	254,519	89,403	104.50%
31300	Oil Tax	7,347,971	7,343,975	987	(3,996)	99.95%
31400	Motor Vehicle Tax	712,000	151,446	42,312	(560,554)	21.27%
31510	Property Tax Penalty & Interest	499,969	176,911	95,571	(323,058)	35.38%
31610	Sales Tax	32,272,462	14,099,935	7,494,370	(18,172,527)	43.69%
33110	In Lieu Property Tax	3,600,000	78,795	-	(3,521,205)	2.19%
33117	Other Federal Revenue	185,000	-	-	(185,000)	0.00%
34110	School Debt Reimbursement	1,324,359	1,088,768	-	(235,591)	82.21%
34221	Electricity & Phone Revenue	155,000	-	-	(155,000)	0.00%
34222	Fish Tax Revenue Sharing	750,000	(107,989)	(107,989)	(857,989)	-14.40%
34210	Revenue Sharing	843,079	843,613	-	534	100.06%
37350	Interest on Investments	936,944	533,546	55,360	(403,398)	56.95%
38000	Trans From Other Funds	175,000	175,000	-	-	100.00%
39000	Other Local Revenue	300,000	145,230	34,317	(154,770)	48.41%
290	Solid Waste	800,000	264,439	13,872	(535,561)	33.05%
Total Revenues		\$ 82,649,737	\$ 55,651,275	\$ 13,653,227	\$ (26,998,462)	67.33%

KENAI PENINSULA BOROUGH
Expenditure Report
For the Period
November 1 through November 30, 2019

DESCRIPTION	REVISED BUDGET	YEAR TO DATE EXPENDED	MONTH TO DATE EXPENDED	AMOUNT ENCUMBERED	AVAILABLE BALANCE	% EXPENDED
Assembly:						
Administration	\$ 494,065	\$ 259,874	\$ 83,694	\$ 50,799	\$ 183,392	52.60%
Clerk	555,004	198,659	52,959	21,279	335,066	35.79%
Elections	113,910	89,929	11,698	6,338	17,644	78.95%
Records Management	269,852	91,847	23,929	17,441	160,564	34.04%
Mayor Administration	818,559	290,260	75,964	427	527,872	35.46%
Purch/Contracting/Cap Proj	625,305	184,443	61,805	7,285	433,576	29.50%
Human Resources:						
Administration	676,140	253,899	65,976	9,045	413,196	37.55%
Print/Mail	194,101	47,580	9,886	30,206	116,315	24.51%
Custodial Maintenance	119,209	41,866	12,032	-	77,343	35.12%
Information Technology	2,015,513	698,004	163,287	14,459	1,303,049	34.63%
Emergency Management	825,019	259,791	52,030	91,646	473,581	31.49%
Legal Administration	994,040	314,841	82,193	81,084	598,115	31.67%
Finance:						
Administration	501,734	194,800	50,568	5,405	301,529	38.83%
Services	1,012,361	362,997	85,660	6,104	643,260	35.86%
Property Tax	1,141,588	422,361	77,772	57,648	661,579	37.00%
Sales Tax	700,613	253,485	56,275	3,024	444,104	36.18%
Assessing:						
Administration	1,415,666	540,865	121,221	45,074	829,727	38.21%
Appraisal	1,984,381	657,863	177,256	17,475	1,309,042	33.15%
Resource Planning:						
Administration	1,264,985	415,244	110,944	31,021	818,721	32.83%
GIS	596,596	233,928	48,710	3,367	359,301	39.21%
River Center	769,721	182,835	45,601	8,230	578,656	23.75%
Senior Citizens Grant Program	608,969	285,436	285,436	323,533	-	46.87%
School District Operations	58,965,977	21,806,219	-	-	37,159,758	36.98%
Solid Waste Operations	8,858,901	2,266,624	618,734	1,772,915	4,819,362	25.59%
Economic Development	425,000	25,000	25,000	75,000	325,000	5.88%
Non-Departmental	1,876,065	746,630	12,153	-	1,129,436	39.80%
Total Expenditures	\$ 87,823,275	\$ 31,125,281	\$ 2,410,793	\$ 2,678,804	\$ 54,019,189	35.44%

Kenai Peninsula Borough Assembly Committees 2019 – 2020

ASSEMBLY COMMITTEES

- **Finance Committee**
Brent Hibbert, Chair
Tyson Cox, Vice Chair
Brent Johnson
- **Lands Committee**
Brent Johnson, Chair
Kenn Carpenter, Vice Chair
Norm Blakeley
- **Policies & Procedures Committee**
Willy Dunne, Chair
Hal Smalley, Vice Chair
Kenn Carpenter
- **Legislative Committee**
Hal Smalley, Chair
Jesse Bjorkman, Vice Chair
Willy Dunne
- **President Pro Tem**
Brent Hibbert
- **OTHER BOROUGH COMMITTEES**
- **School Board**
Tyson Cox
Brent Johnson, Alternate

SERVICE AREA BOARD LIAISONS

- **Anchor Point Fire & EMS** – Willy Dunne
- **Bear Creek Fire** – Kenn Carpenter
- **CES/CPEMS** – Norm Blakeley
- **Kachemak Emergency Service Area** – Willy Dunne
- **KPB Roads** – Kelly Cooper
- **Nikiski Seniors** – Jesse Bjorkman
- **Nikiski Fire** – Jesse Bjorkman
- **North Peninsula Recreation** – Jesse Bjorkman
- **Seldovia Recreational** – Willy Dunne
- **Seward/Bear Creek Flood** – Kenn Carpenter
- **South Kenai Peninsula Hospital** - Kelly Cooper, Willy Dunne
- **NON-BOROUGH COMMITTEES**
- **Cook Inlet Aquaculture**
Dale Bagley
- **Cook Inlet R.C.A.C.**
Grace Merkes, term expires April 2020
- **Kenai Peninsula Economic Development District**
Hal Smalley, term expires with office
- **Kenai Peninsula College Council**
VACANT, term expires with office
- **Kenai River Special Management Area Advisory Board**
Brent Hibbert, term expires with office
- **Prince William Sound R.C.A.C.**
Mako Haggerty, term expires May 2019
- **Kachemak Bay Research Reserve Community Council**
Willy Dunne, term expires with office