



# Kenai Peninsula Borough

144 North Binkley Street  
Soldotna, AK 99669

## Meeting Minutes - Final

### Assembly

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

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Tuesday, February 25, 2020

6:00 PM

Betty J. Glick Assembly Chambers

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#### CALL TO ORDER

#### PLEDGE OF ALLEGIANCE

#### INVOCATION

[Clerk's Note: The invocation was given by Greg Andersen.]

#### ROLL CALL

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

#### 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 Johnson gave notice of consideration on Ordinance 2019-35 and requested it be placed on the March 17, 2020 regular assembly meeting agenda.

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.

President Cooper stated Assembly Members toured the Soldotna Public Safety Communications Center.

#### **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 resolutions and ordinances on the consent agenda.

KPB-2487 February 4, 2020 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:

2019-19-27 An Ordinance Appropriating Matching Funds for the Japanese Creek Levee Flood Risk Mitigation Feasibility Study (Mayor)

*[Clerk's Note: The final Whereas clause of Ordinance 2019-19-27 was amended to read, "the SBCFSA board, at its regularly scheduled meeting of February 10, 2020, recommended approval by unanimous consent."*

**This Budget Ordinance was enacted as amended.**

#### **NEW BUSINESS**

2020-017 A Resolution Requesting the State of Alaska to Provide Necessary Funding to the Alaska Civil Patrol at a Minimum of \$184,300 to Provide Support for Utility Costs, Insurance Premiums and Emergency Roof Repairs (Cooper, Smalley)

**This Resolution was adopted.**

2019-19-28 An Ordinance Appropriating Funds from Nikiski Fire Service Area and Approving the Purchase of Safety-Rated Belts for Self-Contained Breathing Apparatus Equipment for Central Emergency Service Area and Nikiski Fire Service Area (Mayor)

**This Budget Ordinance was introduced and set for public hearing.**

2019-19-29 An Ordinance Appropriating Funds for Three New Borough E911 Dispatcher Positions to Replace Three Vacant State E911 Dispatcher Positions (Mayor)

**This Budget Ordinance was introduced and set for public hearing.**

2020-07 An Ordinance Approving and Accepting Grant Funds from the State of Alaska Division of Homeland Security & Emergency Management to Reimburse Repairs at the Hope School and the Nikiski Junior/Senior High School Resulting from the November 30, 2018 Cook Inlet 7.0 Earthquake (Mayor)

**This Ordinance was introduced and set for public hearing.**

2020-08 An Ordinance Authorizing the Sale of Certain Parcels of Borough Land by Sealed Bid Followed by an Over-the-Counter Sale (Mayor)

**This Ordinance was introduced and set for public hearing.**

KPB-2488 Petition to Vacate the Westerly Approximately 791 feet of Bonita Avenue, a 30-foot right-of-way, Including the Associated 15-foot Utility Easement, as Dedicated on Bremond Farm Estates Norris Addition KN 2005-27. The right-of-way being Vacated in Unconstructed and Located within the NW1/4 SW1/4 of Section 25, Township 5 North, Range 11 West, Seward Meridian, Alaska, Within the Kenai Peninsula Borough. KPB File 2019-132V. (Referred to Lands Committee)

[Clerk's Note: The Planning Commission approved the above referenced petition to vacate at its January 27, 2020 meeting by unanimous consent.]

approved.

#### Approval of the Agenda and Consent Agenda

President Cooper called for public comment with none being offered.

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

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

#### COMMENDING RESOLUTIONS AND PROCLAMATIONS

#### PRESENTATIONS WITH PRIOR NOTICE

KPB-2486 Kenai Peninsula Economic Development District, Tim Dillon (10 Minutes)

*[Clerk's Note: Tim Dillon, Executive Director of the Kenai Peninsula Economic Development District, gave a presentation to the assembly.]*

## **PUBLIC COMMENTS ON ITEMS NOT APPEARING ON THE AGENDA**

President Cooper called for public comment.

**Carrie Henson**, Kalifornsky shared activities happening around the community.

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**

2020-03 An Ordinance Amending KPB 5.18 Sales Tax Code and Enacting KPB 5.19 Uniform Remote Seller Sales Tax Code (Cooper, Smalley)  
Smalley moved to enact Ordinance 2020-03.

President Cooper called for public comment with none being offered.

**Hibbert** moved to amend Ordinance 2020-03 as follows:

Section 1 to read, "The rate of tax to be added to the sale price is based on the place of sale. The place of sale of goods, services, and merchandise is the location of the seller's [RETAIL OUTLET] physical presence at which or from which delivery was made, including installation charges and in-store pickups. If a seller has a physical presence in the borough, any remote sales delivered within the borough shall be taxed at the rate of the point of delivery. [THIS PROVISION APPLIES TO GOODS DELIVERED TO BUYERS WITHIN THE BOROUGH AND TO GOODS DELIVERED TO BUYERS OUTSIDE THE BOROUGH BUT WITHIN THE STATE OF ALASKA. IF THE INVOICE INCLUDES A CHARGE FOR INSTALLATION, THEN THE PLACE OF THE SALE FOR THE GOODS AND SERVICE IS THE RETAIL OUTLET AT WHICH OR FROM WHICH DELIVERY WAS MADE. WHEN GOODS ARE DELIVERED INTO THE BOROUGH FROM A POINT OUTSIDE OF THE BOROUGH AND THE SELLER MAINTAINS AN ONGOING PHYSICAL PRESENCE IN THE BOROUGH, THEN THE LOCATION OF THE SELLER'S IN-BOROUGH PRESENCE WILL DETERMINE THE PLACE OF SALE.] If a seller has no ongoing physical presence in the borough but has established nexus with the borough, the point of delivery will determine the place of sale. If the seller has no ongoing physical presence in, or nexus with, the borough the sale is not subject to the borough sales tax. For purposes of this section the following terms are defined as shown below: 1. "nexus" means the seller has established a taxable connection within the borough by use of marketing techniques, such as directed advertising in the borough

via telephone or internet, or door-to-door sales within the borough, or by use of contract workers or contract or commission agents or businesses, which are associated with the seller's efforts to establish or maintain a market for its goods or services, deliver those goods or services, or provide warranty or other repair or return services in the borough. 2. The "point of delivery" where there is no ongoing physical presence in the borough is the place where physical possession of the goods is transferred to the customer.] and

Section 2 was amended to read, "[SELLERS WITH NO PHYSICAL PRESENCE IN THE BOROUGH THAT HAVE REMOTE OR INTERNET-BASED SALES IN THE BOROUGH AND SELLERS WITH A PHYSICAL PRESENCE IN THE BOROUGH THAT HAVE REMOTE OR INTERNET-BASED SALES WITHIN OTHER TAXING JURISDICTIONS IN ALASKA ARE SUBJECT TO KPB 5.19 INSTEAD OF KPB 5.18.] Sellers with no physical presence in the borough that have remote or internet-based sales in the borough are subject to KPB 5.19 instead of KPB 5.18.

Sellers with a physical presence in the borough that have remote or internet-based sales delivered to a taxing jurisdictions in Alaska outside the borough boundaries are subject to KPB 5.18 and KPB 5.19. Sellers with a physical presence in the borough that have remote or internet-based sales delivered within the borough boundaries are subject to KPB 5.18.450." and

Insert a new Section 3 to read, "Physical presence" means a seller who establishes any one or more of the following within the borough: 1. Has any office, distribution or sales house, warehouse, storefront, or any other place of business within the boundaries of the local taxing jurisdiction; 2. Solicits business or receiving orders through any employee, agent, salesman, or other representative within the boundaries of the borough or engages in activities in the borough that are significantly associated with the seller's ability to establish or maintain a market for its products in the borough; 3. Provides services or holds inventory within the borough; 4. Rents or Leases property located within the boundaries of the borough. A seller that establishes a physical presence within the borough in any calendar year will be deemed to have a physical presence within the borough for the following calendar year." and the remaining sections renumbered.

**The motion to amend Ordinance 2020-03 carried by the following vote:**

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

**The motion to enact Ordinance 2020-03 as amended carried by the following vote:**

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

2020-06

An Ordinance Authorizing a Community Trail Management Agreement on Borough Land within the City of Soldotna with Shimai Toshi Garden Trails, Inc. (Mayor)

Johnson moved to enact Ordinance 2020-06.

President Cooper called for public comment.

The following people spoke in support of Ordinance 2020-06:

Mathew Pyhala, Soldotna  
Komi Shields, Soldotna  
Nancy Casey, Soldotna  
Megan Weston, Soldotna  
Pegge Erkeneff, Kasilof  
Carrie Henson, Kalifornsky  
Heather Daniels, Soldotna  
Kelsie Shields, Soldotna  
Sarah Pyhala, Kenai  
Carol Strickland, Nikiski  
Tim Navarre, Kenai

Assembly Members Blakeley and Hibbert spoke in opposition to Ordinance 2020-06.

Hibbert moved to amend Ordinance 2020-06 as follows:

The final Whereas to read, "The Kenai Peninsula Borough Planning Commission at its regularly scheduled meeting of January 27, 2020 recommended approval by unanimous consent."

The motion to amend Ordinance 2020-06 carried by the following vote:

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

Cox moved to postpone Ordinance 2020-06 as amended March 17, 2020.

The motion to postpone Ordinance 2020-06 as amended to March 17, 2020 carried by the following vote:

Yes: 6 - Bjorkman, Blakeley, Carpenter, Cox, Johnson, and Cooper

No: 3 - Dunne, Hibbert, and Smalley

2019-24

An Ordinance Adopting KPB 20.80, Subdivision Private Streets and Gated Subdivisions (Mayor)

Hibbert moved to enact Ordinance 2019-24 (Mayor) Substitute.

President Cooper called for public comment with none being offered.

Johnson moved to postpone Ordinance 2019-24 (Mayor) Substitute to March 17, 2020.

**The motion to postpone Ordinance 2019-24 (Mayor) Substitute to March 17, 2020 carried by the following vote:**

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

## UNFINISHED BUSINESS

### Postponed Items

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 (Johnson, Cox)

[Clerk's Note: The motion to enact Ordinance 2020-01 was on the floor from the February 4, 2020 meeting.]

President Cooper called for public comment with none being offered.

Assembly Member Johnson spoke in support of Ordinance 2020-01.

**The motion to enact Ordinance 2020-01 as amended carried by the following vote:**

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

## NEW BUSINESS

### Resolutions

2020-015 A Resolution Supporting the Current Laws and Regulations of the State of Alaska Regarding Oil Spill Prevention and Response (Dunne, Cooper)

**Smalley moved to adopt Resolution 2020-015.**

President Cooper called for public comment.

The following people spoke in support of Resolution 2020-015:

**Michael Munger, Soldotna**

**Brook Taylor**

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

Assembly Members Dunne and Johnson spoke in support of Resolution 2020-015.

Assembly Member Bjorkman spoke in opposition to Resolution 2020-015.

President Cooper passed the gavel to Vice President Smalley and spoke in support of Resolution 2020-015.

Vice President Smalley returned the gavel to President Cooper.

**The motion to adopt Resolution 2020-015 carried by the following vote:**

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

**No:** 1 - Bjorkman

2020-016 A Resolution Supporting Alaska House Bill 198, an Act Relating to Aggravating Factors Considered at Sentencing (Cooper, Smalley, Dunne, Johnson)

Smalley moved to adopt Resolution 2020-016

President Cooper called for public comment.

The following people spoke in support of Resolution 2020-016:

**Susan Smalley, Kenai**  
**Carrie Henson, Kalifornsky**  
**Tammie Willis, Soldotna**  
**Leslie Bird, Soldotna**  
**Kaegen Koski, Soldotna**  
**Debbie Cary, Ninilchik**  
**David Brighton, Kenai**  
**Mike Burnum, Soldotna**  
**Tim Navarre, Kenai**

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

Assembly Members Carpenter, Smalley, Dunne and Johnson spoke in support of Resolution 2020-016.

Assembly Members Hibbert, Bjorkman, Cox and Blakeley spoke in opposition to Resolution 2020-016.

President Cooper passed the gavel to Vice President Smalley and spoke in support of Resolution 2020-016.

Vice President Smalley returned the gavel to President Cooper.

**The motion to adopt Resolution 2020-016 carried by the following vote:**

**Yes:** 5 - Carpenter, Dunne, Johnson, Smalley, and Cooper



No: 4 - Bjorkman, Blakeley, Cox, and Hibbert

## MAYOR'S REPORT

### KPB-2475 Mayor's Report Cover Memo

1. Assembly Requests/Responses
2. Agreements and Contracts
  - a. KPB-2476 Authorization to Award a Contract for RFP20-006 Insurance Broker of Record to Marsh and McLennan Agency, LLC., Anchorage, Alaska
  - b. KPB-2477 Authorization to Award a Contract for RFP19-008 EHS Management Software to Intalex Technologies, Inc., Toronto, Ontario Canada
  - c. KPB-2478 NC Machinery Sole Source Waiver for Repairs on the CPL Cat D8T.
  - d. KPB-2479 Sole Source Waiver for a 27-Foot Enclosed Cargo Trailer to White Spruce Trailer Sales, Anchorage, Alaska
  - e. KPB-2480 Authorization to Award a Contract for RFP20-009 KPB Community Wildfire Protection Plan Update to SWCA Environmental Consultants, Broomfield, CO.
  - f. KPB-2481 Purchasing Request for CES Fire Apparatus Through Hughes Fire Equipment, Pierce Manufacturing.
  - g. KPB-2482 NPRSA Digital Control Retrofit to Siemens Industry, Under the Government General Services Administration (GSA) Contract.
3. Other
  - a. KPB-2483 Capital Project Report - December 30, 2019
  - b. KPB-2484 Revenue - Expenditure Report - January 2020
  - c. KPB-2489 Budget Revisions - January 2020
  - d. KPB-2485 Planning Department Awarded 2019 Public Engagement Award
  - e. KPB-2491 Letter to Governor Dunleavy regarding Proposed 2021 DPS Anchorage Emergency Communication Center Project

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**PUBLIC COMMENTS AND PUBLIC PRESENTATIONS**

President Cooper called for public comment.

**Carrie Henson**, Kalifornsky thanked the assembly for their support of Resolution 2020-016 and House Bill 198.

**Susan Smalley**, Kenai thanked the assembly for their support of Resolution 2020-016.

**Debbie Cary**, Ninilchik thanked the assembly for their support of Resolution 2020-016.

**Carol Strickland**, Nikiski asked the assembly what avenues were available for the public to report incidents that were witnessed.

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

**ASSEMBLY COMMENTS**

Assembly Member Johnson thanked Assembly Vice President Smalley for his report of the AML Winter Legislative Conference in Juneau. He thanked Mrs. Smalley for presenting the Assembly with the commemorative coins and the Mayor for his comments during his Mayor's Report. Mr. Johnson gave a recap of the February Board of Fish meeting.

Assembly Member Dunne thanked Assembly Vice President Smalley for his trip report from AML and stated he was pleased that four Assembly Members attended the conference in Juneau. He stated that he attended the "Coffee and Conversation" with KPBSD Superintendent O'Brien and the Homer area School Board Member Mr. Kelly. Mr. Dunne reminded the public of the Anadromous Waters Habitat Protection Work Group was meeting on March 12th at 2:00 in Assembly Chambers.

Assembly Member Blakeley thanked Carrie Henson for her comments and wished everyone a good evening.

Assembly Member Bjorkman spoke on the importance of difficult conversations regarding borough issues.

Assembly Member Cox stated he went to Juneau for the AML winter legislative conference the previous week. He noted that he and fellow assembly members met with local Legislators regarding Borough issues and Resolutions. He stated he attended the KPTMC Board retreat in Homer.

Assembly Member Hibbert stated he was proud to have the opportunity to listen to different groups from around the community. He encouraged his fellow assembly

members to speak up when they see bad things happening in the communities and to educate community members on borough issues. He encouraged everyone to drive home safely.

Assembly Member Carpenter thanked Mr. Andersen for his invocation. He thanked Mayor Pierce, Carrie Henson and Debbie Cary for their comments. He apologized to the public for comments made during the meeting. He encouraged everyone to drive safely home.

Vice President Smalley congratulated Chris Clough and Jack Marriot on their recent retirements. He also congratulated the Planning department on their public engagement award. He spoke on the remote sales tax Ordinance. He thanked Dan Nelson for the tour of the Emergency Management Building. He spoke about issues that were discussed at the AML Winter Legislative Conference. He encouraged everyone to participate at the State level and speak with legislators on issues that were important to them. He thanked everyone for their comments and conversations.

President Cooper thanked the assembly for their diverse conversations. She thanked everyone for attending.

#### PENDING LEGISLATION

1. 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) [Tabled on 01/07/20]

#### INFORMATIONAL MATERIALS AND REPORTS

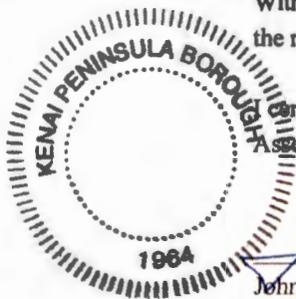
#### ASSEMBLY MEETING AND HEARING ANNOUNCEMENTS

1. March 17, 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 11:14 p.m.

I certify the above represents accurate minutes of the Kenai Peninsula Borough Assembly meeting of February 25, 2020.



*Johni Blankenship*  
Johni Blankenship, MMC, Borough Clerk

Approved by the Assembly: 3-17-2020