


Kenai Peninsula Borough

Material Site Work Group

MEMORANDUM

TO: Charlie Pierce, Mayor
Members, Kenai Peninsula Borough Assembly
Members, Kenai Peninsula Borough Planning Commission

FROM: Robert Ruffner, Chair Material Site Work Group 

DATE: April 30, 2019

RE: Final Report of the Material Site Work Group

Assembly Resolution (SUB) 2018-004 adopted by unanimous consent on January 16, 2018 established the Material Site Work Group (MSWG) for purposes of examining the current material site permit process and considering amendments to the material site code, KPB 21.29. The MSWG was comprised of two assembly members (Wayne Ogle, Vice-Chair and Norm Blakely), two planning commissioners (Robert Ruffner, Chair and Jim Isham replaced by Syverine Abrahamson-Bentz), two members of the public (Brent Johnson and Stacy Crouse replaced by Robin Davis), and two material site industry members (Tom Clark and Larry Smith). The MSWG took a hiatus during the busy season for material site operators from June 1 through September 30, 2018. The deadline for the final report was extended by assembly Resolution 2018-025 until April 30, 2019.

The MSWG adopted the following mission statement:

To evaluate our existing KPB codes with respect to material sites (gravel extraction) to ensure that we collectively believe the appropriate balance exists to meet the need for affordable development while also protecting quality of life for our residents.

Bi-weekly meetings were held with two extra town hall meetings, one in Anchor Point on a Saturday afternoon and one in Soldotna in the evening, for the purposes of receiving public testimony. The town hall meetings were well attended by the public as were the bi-weekly meetings. A significant amount of public testimony was heard regarding specific amendments to KPB 21.29 and in general regarding material sites. Both operators and residents in the borough

participated in this public testimony. Operators expressed concerns regarding additional regulations having a negative financial impact and increasing the cost to the consumer. Residents expressed concerns regarding safety, noise, dust, property values, water quality and quantity, haul routes and the lack of reclamation.

Staff presented the concerns staff and the planning commission observed with the current KPB 21.29. Staff noted they had not received complaints about existing material sites impacting water wells, nor any direct complaints regarding public safety as a result of existing material sites.

The MSWG expressed interest in exploring water quality, visual impacts/property values, and noise control. Speakers were invited to address these areas including representatives from the federal Mine Safety and Health Administration (noise monitoring, back-up beeper technology, alarms, naturally occurring asbestos, air quality and testing processes), the borough assessor's office (property values), and a wetlands expert from the River Center (water issues). State of Alaska Dept. of Environmental Conservation was invited to address the group, but did not attend.

Numerous amendments to the current material site code were proposed by MSWG members. Ultimately the work of the MSWG resulted in additional mandatory conditions to protect surrounding land uses and more discretion for the planning commission to work within those mandatory conditions. The very limited authority to deny a material site permit was retained. Essentially only the failure to provide a reclamation plan, or inability to maintain the setback from waterbodies, would provide a basis for denial. (This is consistent with the authority to deny under the current code.) Two standards were added to the code regarding protection of receiving waters and traffic impacts to align with mandatory conditions that exist in the current code. Several existing mandatory conditions were modified as reflected in the draft ordinance, and several new mandatory conditions were added. In total 23 mandatory conditions are in the proposed ordinance. The current code lists 16 mandatory conditions. Mandatory conditions were added addressing the following: allowed sound level measured by decibel, reverse signal alarms, points of ingress and egress, haul route dust suppression, surface water protection, groundwater elevation, and setbacks from schools, child care facilities, and health care facilities. Current mandatory conditions were strengthened with regards to waterbody protection, water source separation, processing hours, buffers, and reclamation. Proof of compliance with state of Alaska reclamation requirements in the form

of a Letter of Intent or receipt for bonding for prior existing uses was also approved by the MSWG. An additional exemption from material site regulation was added for lots with an on-site development plan.

Approximately 47 individual motions were approved by MSWG and the final recommended ordinance that resulted from those approved amendments was also approved by the MSWG. Prior to final vote approving these recommendations, the MSWG offered MSWG participants the opportunity to reconsider all recommendations. During reconsideration, the recommendation to regulate noise at the property line by decibel level was relaxed. Originally this level was established by adopting the levels used in a portion of the Mat-Su Borough. All members recognize that we do not have expertise in noise levels and that we do not have any data on existing noise levels associated with existing operations in the Kenai Peninsula Borough; therefore, the group wanted to establish some level noise limits and wanted to ensure that any levels we recommended were workable for site operations. Collecting some real data over the course of a year should allow a more informed standard to be established, thus we included a sunset provision in this recommendation.

Your consideration of this ordinance is appreciated.