


Kenai Peninsula Borough
Planning Department

MEMORANDUM

TO: Wayne Ogle, Assembly President
Kenai Peninsula Borough Assembly Members

THRU: Charlie Pierce, Borough Mayor 

FROM: Marcus Mueller, Land Management Officer

DATE: May 31, 2018

RE: Ordinance 2018-23; An ordinance amending KPB 7.20 and KPB 7.30 regarding borough comments on State Marijuana License Applications

The Kenai Peninsula Borough Planning Commission reviewed the subject Ordinance during their regularly scheduled May 29, 2018 meeting.

A motion passed by unanimous consent to recommend approval of Ordinance 2018-23, an ordinance amending KPB 7.20 and KPB 7.30 regarding borough comments on State Marijuana Licenses.

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

WHEREAS, the planning commission reviewed this ordinance at its May 29, 2018 meeting and recommended approval by unanimous consent.

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

AGENDA ITEM F.

PUBLIC HEARING

4. Ordinance 2018-23; An ordinance amending KPB 7.20 and KPB 7.30 regarding borough comments on State Marijuana License Applications

Staff Report given by Bruce Wall

PC MEETING: May 29, 2018

The borough has been administering KPB 7.20 and KPB 7.30 regarding state licensing of marijuana establishments since 2016. In that time frame staff has had the opportunity to review the borough's process for commenting to the state on marijuana licensing issues and has suggested some revisions to create efficiencies in the process. There are four main changes being proposed with this ordinance.

1. This ordinance proposes that renewals, all of which are due annually by June 30, be through an administrative review by finance and planning staff rather than a mandatory public hearing before both the planning commission and the assembly.

If there is a known violation then it will go through the normal process of a public hearing before the planning commission and assembly. If either a renewal or transfer presents compliance issues the hearing process before the planning commission and assembly set forth in KPB 7.30.010(B) and (C) will be initiated.

2. The transfers of ownership will be administratively processed.
3. The driveway width require will be revised from 28 feet to 24 feet and that limited cultivation businesses be exempt from that requirement as the traffic generate by such businesses is minimal
4. It is proposed that affiliates who are defined by state law as being controlled by or controlling a license applicant also be required to be current in all financial obligations to the borough. Staff wants to make sure that the all the owners of the business are in compliance with the tax laws of the borough.

Support of this ordinance would be appreciated.

END OF STAFF REPORT

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

MOTION: Commissioner Ecklund moved, seconded by Commissioner Venuti to recommend approval of Ordinance 2018-23; amending KPB 7.20 and KPB 7.30 regarding Borough comments on State Marijuana Licenses.

Commissioner Foster asked if there was a process for landowners to go to the State or Borough if issues arise from the marijuana business. He asked if landowners would lose the opportunity to speak at a public hearing. Mr. Wall replied that the State does not provide noticing any of the neighbors regarding for their renewal process. Anybody could comment at the State level but would not be notified that a hearing was coming up. He stated that the landowners would need to be proactive to find out when the State hearing was.

Commissioner Foster asked if there would be a public notice for renewals. He asked if landowners would be losing the opportunity to comment. Mr. Wall replied that there would be a public hearing at the renewals the way the code was currently written. All the renewals come due at the same time at the end of June. He stated they would be processing those all at the same time and would send out public notice to property owners within 300 feet of the facility as well as advertise in the newspaper. The approval of this ordinance would eliminate this step.

Commissioner Ruffner asked if staff thought about eliminating the dual hearings before the Planning Commission and the Assembly on the marijuana applications. Mr. Wall replied the when this ordinance was

first drafted there was a proposal to only have a public hearing at the Planning Commission level who would provide comments to the State which would eliminate a hearing at the Assembly. The Assembly also wanted a public hearing when this ordinance went to the Assembly. He stated that the Assembly President has not proposed to eliminate that step.

Commissioner Ecklund asked how many renewals have been processed since the law passed. Mr. Wall thought there were about 20 renewals last year. The year there will be approximately 40-50 marijuana renewals. Commissioner Ecklund asked if they would come through the Planning Commission at the end of June if this was not passed at the Assembly level. Mr. Wall replied that was correct.

Commissioner Ecklund understood that license renewals will not be approved if there was a violation. She asked if a renewal application would come before the Planning Commission if a facility had numerous violations but fixed them all. Mr. Wall replied that renewal applications would come before the Planning Commission and Assembly if they are in violation. If they are not in violation then it will be processed administratively.

Commissioner Carluccio asked what it meant if a stockholder for a LLC was not in compliance. She asked if it meant that they do not recommend approval but thought final approval still goes to the State. Mr. Wall replied yes, that was correct. The way the regulations at the State are written is that there is a great deal of weight given if the borough objects to the issuance of the license. Basically, they will not issue the license if the State Marijuana Control Board determines that the borough's decision or objection was arbitrary, capricious or unreasonable.

Commissioner Carluccio asked if he was familiar with any licenses that have been denied. Mr. Wall replied that there was one new license application that the borough did not object to but the State denied it. Commissioner Carluccio asked if the borough recommended denial but the State approved it. Mr. Wall replied that the borough hasn't had any objections. There was one that they had an additional qualification with access but that one is getting resolved.

VOTE: The motion passed by unanimous consent.

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| BENTZ ABSENT | CARLUCCIO YES | ECKLUND YES | ERNST YES | FIKES YES | FOSTER YES | ISHAM ABSENT |
| MARTIN YES | MORGAN ABSENT | RUFFNER YES | VENUTI YES | WHITNEY YES | | 9 YES 3 ABSENT |

~~AGENDA ITEM F. PUBLIC HEARING~~

- ~~5. Resolution 2018-027; Supporting proposals to name two mountain peaks located East of Resurrection Bay as Mount Mary and Santa Ana Peak.~~

~~Memorandum & Staff Report given by Marcus Mueller PC MEETING: May 29, 2018~~

~~Two longtime Seward residents, Daniel P. Michaud and Harold E. Faust, who are active mountain climbers and explorers are developing a proposal to name two local mountain peaks Mount Mary and Santa Ana Peak. This resolution is submitted at their request to show borough support of their proposal.~~

~~Their justification for naming Mount Mary is to honor Mary Lowell who was born in August, 1855 and died in May, 1906. She was originally from English Bay (now Nanwalek) where she met and married a trader for the Alaska Commercial Company, Frank Lowell. They moved to Resurrection Bay in 1884, built a homesite and together had nine children. After Frank left the family in 1893 Mary stayed on the homesite, successfully raised her children and completed her homestead claim. Mary subsequently died in Seward in May of 1906. Her daughter Alice married a Seward homesteader and Eva married a local dog musher and mail carrier and later a pioneer hunting guide. A number of Seward landmarks are named in memory of the Lowell family including, Lowell Canyon, Lowell Creek and Lowell Point. This mountain is located across Resurrection Bay from the City of Seward and is the main peak east of the ship lift/prison sites, lying on the southeast side of Godwin Glacier. Mount Alice and Mount Eva were named after two of Mary's children. It seems fitting to~~