



KENAI PENINSULA BOROUGH

PLANNING DEPARTMENT

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MIKE NAVARRE
BOROUGH MAYOR

MEMORANDUM

TO: Dale Bagley, Assembly President
Kenai Peninsula Borough Assembly Members

THRU: Mike Navarre, Borough Mayor *MN*

FROM: Max Best, Planning Director *MB*

DATE: August 13, 2015

SUBJECT: Ordinance 2015-23, An Ordinance Amending KPB 21.50.040, .050, .120 and .130 Regarding Enforcement of Borough Land Use Regulations for Conformity with Road Service Area Enforcement Actions and Current Practice

The Kenai Peninsula Borough Planning Commission reviewed the subject ordinance during their regularly scheduled August 10, 2015 meeting. A motion passed by unanimous consent to recommend approval of the ordinance amending KPB Chapter 21.50.040, .050, .120 and .130 Regarding Enforcement of Borough Land Use Regulations for Conformity with Road Service Area Enforcement Actions and Current Practice.

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

WHEREAS, the Planning Commission reviewed this ordinance at its August 10, 2015 and recommended approval by unanimous consent.

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

AGENDA ITEM F. PUBLIC HEARINGS

- 3. Ordinance 2015-23, An Ordinance Amending KPB 21.50.040, .050, .120 and .130 Regarding Enforcement of Borough Land Use Regulations for Conformity with Road Service Area Enforcement Actions and Current Practice

Staff Report given by Max Best

PC Meeting 8/10/15

This is a companion ordinance to the ordinance amending KPB chapter 14.40, also up for introduction July 7, 2015. The proposed amendment to KPB Chapter 14.40 amends the enforcement procedure for right-of-way violations. Kenai Peninsula Borough Chapter 21.50 addresses enforcement of borough land use regulations. Efforts were made to ensure that the two sets of enforcement procedures are consistent with one another where appropriate. While drafting the ordinance amending Kenai Peninsula Borough Chapter 14.40, the administration noticed that KPB chapter 21.50 required several amendments to ensure continuity between KPB Chapters 14.40 and 21.50.

KPB 21.50.040 lists the various remedies available to the borough for any violation of Title 21. Subsection A describes the borough's ability to pursue court action. A29.25.070 allows a municipality to seek injunctive relief against any person who violates an ordinance. The current version of KPB 21.59.040(A) unduly limits the borough to seek court action only when a violation creates an immediate threat.

KPB 21.50.050 presents the fine schedule for violations of KPB Title 21. It currently does not describe how fines are assessed. The proposed amendment, assessing fines starting the date the enforcement notice is issued and continuing to the date of the enforcement hearing, represents current practice.

KPB 21.50.120 does not require the borough to copy the enforcement file to the respondent. An amendment, consistent with proposed KPB 14.40.340(B) would require the borough copy the enforcement file to the respondent which will also conform the code to the planning department's practice.

KPB 21.50.130(G)(2) is also revised by clarifying that the equivalent of a one day fine cannot be suspended which is consistent with the interpretation of the current language of the section and consistent with the proposed companion language in KPB 14.40.

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 ON THE FLOOR: Commissioner Ecklund moved, seconded by Commissioner Isham to recommend approval of Ordinance 2015-23, An Ordinance Amending KPB 21.50.040, .050, .120 and .130 Regarding Enforcement of Borough Land Use Regulations for Conformity with Road Service Area Enforcement Actions and Current Practice

VOTE: The motion passed by unanimous consent.

CARLUCCIO YES	COLLINS YES	ECKLUND YES	ERNST YES	FOSTER YES	GLENDENING ABSENT	HOLSTEN YES
ISHAM YES	LOCKWOOD ABSENT	MARTIN YES	RUFFNER ABSENT	VENUTI YES	WHITNEY YES	10 YES 3 ABSENT

AGENDA ITEM F. PUBLIC HEARING

- 4. Conditional Land Use Permit for a Material Site; Ninilchik Area

Staff Report given by Bruce Wall

PC MEETING: August 10, 2015

Applicant: Oil Well Road Pit, LLC