



Kenai Peninsula Borough

144 North Binkley Street
Soldotna, AK 99669

Meeting Minutes - Final

Assembly

Brent Johnson, President

Tyson Cox, Vice President

Kelly Cooper

Cindy Ecklund

Bill Elam

Brent Hibbert

Peter Ribbens

Ryan Tunseth

Mike Tupper

Tuesday, September 19, 2023

6:00 PM

Council Chambers, Homer City Hall

[https://us06web.zoom.us/j/88473739641?](https://us06web.zoom.us/j/88473739641?pwd=dW1sY2RYV0F4dURjV25yVW9WUGw3QT09)

[pwd=dW1sY2RYV0F4dURjV25yVW9WUGw3QT09](https://us06web.zoom.us/j/88473739641?pwd=dW1sY2RYV0F4dURjV25yVW9WUGw3QT09)

Meeting ID: 884 7373 9641 Passcode: 671108

CALL TO ORDER

PLEDGE OF ALLEGIANCE

INVOCATION

[Clerk's Note: The invocation was given by Joan Corr.]

ROLL CALL

Present: 9 - Brent Hibbert, Richard Derkevorkian, Bill Elam, Lane Chesley, Cindy Ecklund, Mike Tupper, Brent Johnson, Tyson Cox, and Peter Ribbens

Also present were:

Peter A. Micciche, Borough Mayor

Sean Kelley, Borough Attorney

Brandi Harbaugh, Finance Director

Michele Turner, Borough Clerk

Tamera Ward, Deputy Borough Clerk

COMMITTEE REPORTS

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

[9 Present: Cox, Chesley, Derkevorkian Ecklund, Elam (Via Zoom at 1:41pm), Hibbert, Ribbens, Tupper, Johnson]

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

[9 Present: Cox, Chesley, Derkevorkian Ecklund, Elam, Hibbert, Ribbens, Tupper, Johnson]

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

[9 Present: Cox, Chesley, Derkevorkian Ecklund, Elam, Hibbert, Ribbens, Tupper, Johnson]

Assembly Member Chesley stated the Legislative Committee met and discussed its agenda item.

[9 Present: Cox, Chesley, Derkevorkian Ecklund, Elam, Hibbert, Ribbens, Tupper, Johnson]

APPROVAL OF AGENDA AND CONSENT AGENDA

Cox moved to approve the agenda and consent agenda.

Copies have been made available to the public, Borough Clerk Michele Turner noted by title the items on the consent agenda.

[KPB-5500](#) September 5, 2023 Regular Assembly Meeting Minutes

The following public hearing items met the required conditions KPB 22.40.110 and were added to the consent agenda:

[2022-19-83](#) An Ordinance Appropriating General Funds to Provide Interim Funding for the Central Peninsula Landfill Leachate Infrastructure Improvements Project (Mayor)

This Budget Ordinance was enacted.

[2023-19-15](#) An Ordinance Appropriating \$39,755 from the General Fund to Replace the Control Panel on the Fire Suppression System at the Records Center (Johnson)

This Budget Ordinance was enacted.

[2023-19-16](#) An Ordinance Appropriating \$30,750 from the Seward-Bear Creek Flood Service Area Fund Balance to Purchase GIS Equipment (Mayor)

This Budget Ordinance was enacted.

New Business

[2023-058](#) A Resolution Approving an Increase to the Limitation on the Total Cumulative Annual Cost of Real Property Leases in which South

Peninsula Hospital, Inc. is the Sole Lessee, Approving Exhibit A Updates, and Approving a Third Amendment to the Operating Agreement (Mayor)

[Clerk's Note: Assembly Member Chesley abstained from the discussion and vote as he owns property that South Peninsula Hospital leases.]

This Resolution was adopted.

Yes: 8 - Hibbert, Derkevorkian, Elam, Ecklund, Tupper, Johnson, Cox, and Ribbens

Abstain: 1 - Chesley

[2023-059](#) A Resolution Amending the Scope of Work for the Renovation of the 4201 Bartlett Street Leased Property for South Kenai Peninsula Hospital Service Area Purposes (Mayor)

This Resolution was adopted.

[2023-061](#) An Emergency Resolution Extending the Declaration of Local Disaster Emergency Issued on September 14, 2023 Due to High Water and Flooding Events

This Resolution was adopted.

[2023-19-17](#) An Ordinance Accepting and Appropriating an Additional \$5,525.20 from the State of Alaska Department of Military and Veterans Affairs, Division of Homeland Security and Emergency Management for Statewide Exercise Planning (Mayor)

This Budget Ordinance was introduced and set for public hearing.

[2023-19-18](#) An Ordinance Appropriating \$25,000 from the Western Emergency Service Area Operating Fund to Complete Installation of Mobile Radios, Station Consolettes and Repeater (Mayor) (Hearing on 10/10/23)

This Budget Ordinance was introduced and set for public hearing.

[2023-19-19](#) An Ordinance Appropriating Funds to the Legal Department for Litigation Fees and Costs Related to an Oil and Gas Property Tax Appeal (Mayor)

This Budget Ordinance was introduced and set for public hearing.

[2023-19-20](#) An Ordinance Appropriating \$250,273 from the Roads Service Area Fund Balance to Replenish Road Maintenance Funding for the Remainder of the Fiscal Year (Mayor)

This Budget Ordinance was introduced and set for public hearing.

[2023-22](#)

An Ordinance Authorizing the Assessor to Accept One Late-Filed Community Purpose Exemption Application for 2023 and Providing an Exception to KPB 5.12.040(B) (Mayor)

This Ordinance was introduced and set for public hearing.

[2023-23](#)

An Ordinance Amending KPB 20.30.280 and KPB 21.06 Regarding Floodplain Management to Adopt Required Changes to Remain Compliant with the National Flood Insurance Program (Mayor)

This Ordinance was introduced and set for public hearing.

[KPB-5488](#)

Approval of Precinct Boards, Canvass Board, and Absentee Voting Officials for the October 3, 2023 Borough Election and the October 24, 2023 Mayoral Run-Off Election (if Required)

approved.

[KPB-5489](#)

Confirming the Appointments of the Voter Turnout Working Group Members

approved.

[KPB-5490](#)

Confirming the Appointments to the Advisory Planning Commissions

Cooper Landing

Yvette Galbraith, Seat C, Term to Expire: 09/30/2026

Heather Harrison, Seat D, Term to Expire: 09/30/2026

Funny River

James L. Harpring, Seat B, Term to Expire: 09/30/2026

Hope / Sunrise

Dawn Hammond-Sammet, Seat E, Term to Expire: 09/30/2026

Jim Skogstad, Seat G, Term to Expire: 09/30/2026

Moose Pass

Kevin Dunham, Seat B, Term to Expire: 09/30/2026

Nikiski

Tom Coursen, Seat E, Term to Expire: 09/30/2026

Stacy Oliva, Seat B, Term to Expire: 09/30/2026

Jon Harman, Seat F, Term to Expire: 09/30/2025

approved.

[KPB-5491](#) Confirming the Appointments to the Road Service Area

Kathryn Thomas, West Region Seat, Term to Expire: 09/30/2026
(Areas of North K-Beach, Kasilof & Ninilchik)

Michele Hartline, North Region Seat, Term to Expire: 09/30/2026
(Areas of North Kenai and Nikiski)

approved.

Approval of the Agenda and Consent Agenda

President Johnson called for public comment with none being offered.

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

Yes: 9 - Hibbert, Derkevorkian, Elam, Chesley, Ecklund, Tupper, Johnson, Cox, and Ribbens

PRESENTATIONS WITH PRIOR NOTICE

1. [KPB-5501](#) Kenai Peninsula Borough School District Quarterly Report, Clayton Holland, Superintendent (10 minutes)

[Clerk's Note: Clayton Holland, Superintendent of the Kenai Peninsula Borough School District gave a presentation to the assembly.]

2. [KPB-5502](#) Status Update on Homer Harbor Expansion Study, Brian Hawkins, Homer Harbor Master (10 minutes)

[Clerk's Note: Brian Hawkins, Homer Harbor Master gave a presentation to the assembly.]

PUBLIC COMMENTS ON ITEMS NOT APPEARING ON THE AGENDA

President Johnson called for public comment.

Ray Southwell, Nikiski addressed the assembly regarding sex trafficking on the peninsula.

Duane Bannock, spoke regarding the school rehabilitation bonds.

The following people addressed the assembly regarding Brine on State roads:

Mike Arnold

Debbie Arnold

Willy Nye
Scott Adams
Representative Ben Carpenter

Ingrid Harrald, spoke regarding Ordinance 2023-049 and Youth Mental Health First Aid on the Kenai Peninsula.

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

PUBLIC HEARINGS ON ORDINANCES

[2022-36](#)

Ordinance 2022-36 (Johnson, Chesley) Substitute: Amending KPB Chapter 21.25 and KPB Chapter 21.29 Regarding Conditional Land Use Permits and Material Site Permits, Updating Notice, Applicability, Permit Types, Application Requirements, Standards and Permits Conditions (Johnson, Chesley)

[Clerk's Note: The motion to enact was on the floor from the 09/06/22 meeting.]

President Johnson called for public comment.

The following people addressed the assembly regarding Ordinance 2022-36:

RC Cline, Anchor Point
Eileen Sheridan, Anchor Point
Gary Sheridan, Anchor Point
Sue Mauger, Cook Inlet Keeper, Anchor Point
Ann Cline, Anchor Point
Rick Foster
George Matz
Lynn Whitmore
Vickey Hodnik
Linda Patrick, Anchor Point
Mike Patrick
Marc VanHaywaer, Anchor Point
Katherine Schake, Research Reserve
Gordy Vernon, Kenai
Rika Mouw
Nancy Hilstrand
Ed Martin III, Contractors Association
Hans Bilben
Roberta Highland
Michael Brantley,

Robert Archibard, Kachemak Bay Advisory Board

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

Cox moved to amend Ordinance 2022-36 (Johnson, Chesley) Substitute as follows:

Add a new second and third Whereas clause to read, "material sites and material site operators are vital to the development and improvement of the borough; and" and "the Kenai Peninsula Borough supports material sites and recognizes that without material sites there would not be economic development; and".

Ecklund moved to amend the amendment as follows:

Delete the new third Whereas clause, [THE KENAI PENINSULA BOROUGH SUPPORTS MATERIAL SITES AND RECOGNIZES THAT WITHOUT MATERIAL SITES THERE WOULD NOT BE ECONOMIC DEVELOPMENT; AND]

The motion to amend the amendment failed by the following vote:

Yes: 2 - Chesley, and Ecklund

No: 7 - Hibbert, Derkevorkian, Elam, Tupper, Johnson, Cox, and Ribbens

The main motion to amend Ordinance 2022-36 (Johnson, Chesley) Substitute carried by the following vote:

Yes: 9 - Hibbert, Derkevorkian, Elam, Chesley, Ecklund, Tupper, Johnson, Cox, and Ribbens

Cox moved to amend Ordinance 2022-36 (Johnson, Chesley) Substitute as follows:

Amend Section 3, paragraph 21.29.020(A) to read, "Counter permit. A counter permit is required for earth material extraction which disturbs more than one acre and less than 5 cumulative un-reclaimed acres and is limited to one counter permit per parcel. Material conditioning or processing, and material extraction within two feet of the seasonal high-water table is prohibited under a counter permit except, upon request from the applicant, the planning director or designee may issue a [ONE TIME] **limited** processing waiver for screening of materials only. [THE ONE TIME] **This** processing waiver may not exceed [SIXTY]**thirty** consecutive days **per year**. The hours of operation under the one-time processing waiver are the same as provided for a Type II Earth Materials Conditioning or Processing Endorsement under 21.29.055. Buffer conditions for a one-time processing waiver must be established consistent with the permit application prior to commencement of processing operations. A counter permit is valid for a period of two years. Upon request from the applicant, the planning director, or designee, may grant one 12-month extension on a counter permit. Counter permits are approved by the planning director, or designees, and are not subject to notice requirements under KPB 21.25.060. The planning director's decision to approve or deny a counter permit may be appealed to the planning commission, which must act as the hearing officer, in accordance with KPB 21.20."

The motion to amend Ordinance 2022-36 (Johnson, Chesley) Substitute carried as follows:

Yes: 9 - Hibbert, Derkevorkian, Elam, Chesley, Ecklund, Tupper, Johnson, Cox, and Ribbens

Cox moved to amend Ordinance 2022-36 (Johnson, Chesley) Substitute as follows:

Amend Section 3, paragraph 21.29.040 to read, "A. These material site regulations are intended to protect against aquifer disturbance, road damage, physical damage to adjacent properties, dust, noise, visual and other impacts of earth materials extraction sites through setbacks, buffer zones, street-level [~~visual~~] screening, and protection of [SALMON REARING]anadromous waters. Prior to granting a counter permit or conditional land use permit under this chapter, the planning director or planning commission, as applicable, must make the following findings:

1. That the use is not inconsistent with the applicable comprehensive plan;
2. That the use will not be harmful to the public's health, safety, and general welfare, or the health of anadromous waters [PARTICULARY WITH REGARD TO JUVENILE SALMON];
3. That sufficient setbacks, buffer zones, and other safeguards, including measures to mitigate impacts to groundwater flow paths [IMPORTANT OF JUNVENILE SALMON], are being provided consistent with this chapter; **and**
4. That the use provides for a reclamation plan consistent with this chapter[;]. [AND
5. THAT THE USE WILL PRESERVE THE VALUE AND CHARACTER OF THE SURROUNDING AREA.]"

The motion to amend Ordinance 2022-36 (Johnson, Chesley) Substitute carried by the following vote:

Yes: 9 - Hibbert, Derkevorkian, Elam, Chesley, Ecklund, Tupper, Johnson, Cox, and Ribbens

Cox moved to amend Ordinance 2022-36 (Johnson, Chesley) Substitute as follows:

Amend Section 3, paragraph 21.29.050(A)(1)(a) as to read, "A. The planning commission or planning director, as applicable, must impose the following mandatory conditions prior to approval of a permit under this chapter:

1. Buffer Zone.

a. A minimum 30-foot buffer zone must be established between the area of excavation and the parcel boundaries. The buffer zone must provide street-level visual, dust and noise screening. The buffer zone may include one of the following: a six-foot earthen berm with a 2:1 slope; a minimum six-foot foot sight-obscured fence; or an alternative buffer proposal that the planning commission or planning director, as applicable, deems appropriate. There is no requirement to buffer the material site from uses which commence after the approval of the permit. Berms may not alter natural drainage features;"

The motion to amend Ordinance 2022-36 (Johnson, Chesley) Substitute carried by the following vote:

Yes: 9 - Hibbert, Derkevorkian, Elam, Chesley, Ecklund, Tupper, Johnson, Cox, and Ribbens

Cox moved to amend Ordinance 2022-36 (Johnson, Chesley) Substitute as follows:

Amend Section 3, paragraphs 21.29.050(B)(5) & (7)(a) to read, "B. [DISCRETIONARY]Site Specific Conditions. The planning commission or planning director, as applicable, may set conditions of approval for issuance of a counter permit or CLUP, as appropriate for the area in which the development is sited, for the following:

...

5. Street-level screening. Street-level visual screening, noise mitigation, and lighting restrictions as appropriate for the surrounding area and in accordance with the standards set forth in KPB 21.29.040.

...

7. *Special Impacts Zone (SIZ)*

a. The screening of adverse [VISUAL] noise, dust, [AND DUST] **or other** impacts protects public health, safety, and general welfare. General welfare is further served through imposition of this zone. The distance restrictions balance the right to quiet enjoyment of one's property against development rights. Residents within this zone may request screening methods that are objective, measurable, and within the overall regulatory limits set by this chapter by providing substantial evidence to support the request.

b. For counter permits, [VISUAL] noise, dust, [AND DUST] **or other** impacts that cannot be screened as set forth in Subsection 8(a) within 500 horizontal feet of an existing principle residential structure may be grounds for denial. For Type 1, 2, and 3 Endorsements, [VISUAL] noise, dust, [AND DUST] **or other** impacts that cannot be screened as set forth in Subsection 8(a) within 750 horizontal feet of an existing principle residential structure may be grounds for denial. The distances specified in this subsection will be measured from any outer wall of a principle residential structure to the nearest boundary of the proposed material site permitted parcel."

The motion to amend Ordinance 2022-36 (Johnson, Chesley) Substitute carried by the following vote:

Yes: 9 - Hibbert, Derkevorkian, Elam, Chesley, Ecklund, Tupper, Johnson, Cox, and Ribbens

Cox moved to postpone Ordinance 2022-36 (Johnson, Chesley) Substitute as amended to October 10, 2023.

The motion to postpone Ordinance 2022-36 (Johnson, Chesley) Substitute carried as follows:

Yes: 9 - Hibbert, Derkevorkian, Elam, Chesley, Ecklund, Tupper, Johnson, Cox, and Ribbens

[2023-17](#)

An Ordinance Amending KPB 22.40.080 to Place the Mayor's Report Earlier on the Agenda (Johnson, Elam)

Chesley moved to enact Ordinance 2023-17.

President Johnson called for public comment with none being offered.

The motion to enact Ordinance 2023-17 carried by the following vote:

Yes: 9 - Hibbert, Derkevorkian, Elam, Chesley, Ecklund, Tupper, Johnson, Cox, and Ribbens

UNFINISHED BUSINESS

1. Notices to Consider

[2023-005](#)

A Resolution of Intent by The Kenai Peninsula Borough Assembly Establishing that Financing of Energy and Resilience Improvement Projects through Assessments Serves a Valid Public Purpose and Related Matters (Ecklund) (Postponed from 09/19/23)

[Clerk's Note: Assembly Member Ecklund gave notice to remove Resolution 2023-005 from the table on 09/09/23, per KPB 22.40.070.]

Ecklund moved to remove Resolution 2023-005 from the table.

The motion to remove Resolution 2023-005 from the table carried by the following vote:

Yes: 9 - Hibbert, Derkevorkian, Elam, Chesley, Ecklund, Tupper, Johnson, Cox, and Ribbens

President Johnson called for public comment.

Peter Crimp spoke in support of Resolution 2023-005.

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

Cox moved to postpone Resolution 2023-005 to October 24, 2023.

The motion to postpone Resolution 2023-005 to October 24, 2023 carried by the following vote:

Yes: 9 - Hibbert, Derkevorkian, Elam, Chesley, Ecklund, Tupper, Johnson, Cox, and Ribbens

NEW BUSINESS

1. Resolutions

[2023-060](#)

A Resolution Recommending an Amendment to Title 14 of the Alaska Statutes, Relating to School Boards, to Allow for Term Limits for School Boards (Derkevorkian)

Cox moved to adopt Resolution 2023-060.

President Johnson called for public comment with none being offered.

Cox moved amend Resolution 2023-005 as follows:

Delete the fifth Whereas clause, "[A RECENTLY FILED BALLOT MEASURE WOULD SET TERM LIMITS FOR LAWMAKERS SERVING IN THE ALASKA LEGISLATURE; AND]"

The motion to amend Resolution 2023-060 carried by the following vote:

Yes: 9 - Hibbert, Derkevorkian, Elam, Chesley, Ecklund, Tupper, Johnson, Cox, and Ribbens

Cox moved the amend Resolution 2023-060 as follows:

Amend the fourth Whereas clause to read, "the decision to adopt term limits for local school board members should be allowable under Alaska Statutes and should be a matter of local choice; [AND]" and

Delete the sixth Whereas clause, "[TERM LIMITS MAY HELP COMBAT INCUMBENTS' NAME RECOGNITION ADVANTAGE, AND ALLOW FOR NEW, FRESH PERSPECTIVES;]"

The motion to amend Resolution 2023-060 carried by the following vote:

Yes: 9 - Hibbert, Derkevorkian, Elam, Chesley, Ecklund, Tupper, Johnson, Cox, and Ribbens

The motion to adopt Resolution 2023-060 as amended carried by the following vote:

Yes: 9 - Hibbert, Derkevorkian, Elam, Chesley, Ecklund, Tupper, Johnson, Cox, and Ribbens

MAYOR'S REPORT

Mayor's Report Cover Memo

[KPB-5492](#) Mayor's Report to the Assembly

1. Assembly Requests/Responses - None.
2. Agreements and Contracts
 - a. [KPB-5493](#) Authorization to Award a Contract for ITB23-035 Digital Signage – Western Emergency Services
 - b. [KPB-5494](#) Authorization to Award a Contract for ITB24-007 Gravel Road Projects FY2024 South Region, Units 5, 7 & 8
 - c. [KPB-5495](#) Authorization to Award a Contract for ITB24-014 CPL Temporary Cover Purchase & Installation
 - d. [KPB-5496](#) Authorization to Award a Contract for RFP24-001 Local Trust Fund Investment Services
 - e. [KPB-5497](#) Barge Services to Nanwalek Sole Source Waiver

3. Other

- a. [KPB-5498](#) Certification of the 2023 Personal Property Supplemental Assessment Roll
- b. [KPB-5499](#) Tax Adjustment Request Approval

PUBLIC COMMENTS AND PUBLIC PRESENTATIONS

President Johnson called for public comment.

The following people addressed the assembly regarding Brine on State Roads:

Dean Ravin
Tracy Davis
Brad Drake

Alex Koplín, addressed the assembly regarding the Voter Turnout Working Group.

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

ASSEMBLY COMMENTS

Assembly Member Ribbens shared that Ellis White passed away. He stated, she was born in Cooper Landing 103 years ago.

Assembly Member Elam stated it was nice to have a large turnout in Homer.

Assembly Member Chesley thanked everyone for attending. He stated, he hoped future meetings in Homer would be held at a different venue. He wished everyone a safe drive home.

Assembly Member Ecklund agreed that a different venue would be helpful. Ms. Ecklund reminded everyone of the October 17, 2023 energy fair hosted by the Seward Chamber of Commerce. She stated since this was the last meeting she was appearing with Mr. Derkevorkian and Mr. Chesley, she thanked Mr. Derkevorkian for being well researched on matters he brought forward and stated it was great to sit next to Mr. Chesley and that she appreciated his hard work on the Material Site Subcommittee.

Assembly Member Hibbert wished everyone a safe drive home.

Vice President Cox announced the upcoming Soldotna High School sporting events

and wished everyone a good evening.

President Johnson reminded everyone of the State of Alaska Historical Society annual convention October 5, 2023 through October 8, 2023 at the Kenai Peninsula College Campus. He stated he attended the Kenai Peninsula College Council Meeting and learned that enrollment was up 26% over last year. He wished everyone a good evening.

INFORMATIONAL MATERIALS AND REPORTS

ASSEMBLY MEETING AND HEARING ANNOUNCEMENTS

1. September 18, 2023 7:00 PM
Sterling Community Meeting
Sterling Community
2. September 21, 2023 5:30 PM
Bear Creek Community Meeting
Bear Creek Fire Station
3. September 23, 2023 11:00 AM
Lowell Point Community Meeting
Penny Hardy Community Center
4. September 23, 2023 1:00 PM
Moose Pass Community Meeting
Moose Pass Community Center
5. September 23, 2023 3:00 PM
Hope Community Meeting
Hope Social Hall
6. September 23, 2023 7:00 PM
Cooper Landing Community Meeting
Cooper Landing Elementary School
7. September 27, 2023 6:00 PM
Anchor Point Community Meeting
Chapman Elementary School
8. September 28, 2023 6:00 PM
Kasilof, Clam Gultch & Cohoe Community Meeting
Tustemena Elementary School
9. September 29, 2023 1:00 PM
Ninilchik Community Meeting
Ninilchik Senior Center

10. September 29, 2023 6:00 PM
Funny River Community Meeting
Funny River Community Center

11. September 30, 2023 10:00 AM
Diamond Ridge, Fox River & Fritz Creek Community Meeting
McNeil Canyon Elementary School

12. October 10, 2023 6:00 PM
Regular Assembly Meeting
Betty J. Glick Assembly Chambers
Remote Participation Available Through Zoom
Meeting ID: 884 7373 9641 Passcode: 671108

ADJOURNMENT

With no further business to come before the assembly, President Johnson adjourned the meeting at 11:15 p.m.

I certify the above represents accurate minutes of the Kenai Peninsula Borough Assembly meeting of September 19, 2023.

Michele Turner, CMC, Borough Clerk

Approved by the Assembly: _____