



Kenai Peninsula Borough

144 North Binkley Street
Soldotna, AK 99669

Meeting Minutes

Assembly

Brent Johnson, President

Brent Hibbert, Vice President

Jesse Bjorkman

Lane Chesley

Tyson Cox

Richard Derkevorkian

Cindy Ecklund

Bill Elam

Mike Tupper

Tuesday, January 18, 2022

6:00 PM

Betty J. Glick Assembly Chambers

Zoom Meeting ID: 884 7373 9641 Passcode: 671108

CALL TO ORDER

PLEDGE OF ALLEGIANCE

INVOCATION

[Clerk's Note: The invocation was given by Iris Fontana.]

ROLL CALL

Present: 8 - Jesse Bjorkman, Tyson Cox, Brent Johnson, Richard Derkevorkian, Bill Elam, Lane Chesley, Cindy Ecklund, and Mike Tupper

Excused: 1 - Brent Hibbert

Also present were:

Charlie Pierce, Mayor

Aaron Rhoades, Chief of Staff

Brandi Harbaugh, Finance Director

Sean Kelley, Borough Attorney

Johni Blankenship, Borough Clerk

Michele Turner, Deputy Borough Clerk

COMMITTEE REPORTS

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

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

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

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

APPROVAL OF AGENDA AND CONSENT AGENDA

- [KPB-3872](#) January 4, 2022 Regular Assembly Meeting Minutes
approved.
- [2022-01](#) An Ordinance Authorizing A Communication Tower Agreement with Vertical Bridge S3 Assets, LLC at Nikiski Fire Station 1 (Mayor)
This Ordinance was enacted.
- [2022-006](#) A Resolution Establishing Kenai Peninsula Borough 2021 State Capital Project Priorities in Response to the Infrastructure Investment and Jobs Act (Mayor)
[Clerk's Note: The title was amended to read, "Establishing the Kenai Peninsula Borough 2021 State Capital Project Priorities in Response to the Infrastructure Investment and Jobs Act"]
This Resolution was adopted as amended.
- [2021-19-34](#) An Ordinance Accepting and Appropriating Fisheries Business Tax Funds Received from the State of Alaska under the Federal Pass-Through Program, American Rescue Plan Act of 2021 in the Amount of \$86,408.54 for the Purpose of Supplementing the Radio Consultant Project to Address Public Safety Communications (Mayor)
This Budget Ordinance was introduced and set for public hearing.
- [2021-19-35](#) An Ordinance Appropriating Funding from the Central Peninsula Hospital Plant Replacement and Expansion Fund for the Central Peninsula Hospital Hot Lab Upgrade to ISO Cleanroom Project (Mayor)
This Budget Ordinance was introduced and set for public hearing.
- [KPB-3873](#) Confirming Appointments to the Advisory Planning Commissions (Mayor)

Funny River Advisory Planning Commission
Jerry Herring, Seat C, Term Expires 09/30/24

Hope/Sunrise Advisory Planning Commission
Flip Foldager, Seat A, Term Expires 09/30/24
Richard “Levi” Hogan, Seat B, Term Expires 09/30/24
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: 8 - Bjorkman, Cox, Johnson, Derkevorkian, Elam, Chesley, Ecklund, and Tupper

Absent: 1 - Hibbert

COMMENDING RESOLUTIONS AND PROCLAMATIONS

PRESENTATIONS WITH PRIOR NOTICE

1. [KPB-3874](#) Kenai Peninsula Borough School District Quarterly Report, Clayton Holland, Superintendent of Schools (10 Minutes)

[Clerk's Note: Clayton Holland, Superintendent of Schools gave a quarterly report to the assembly.]

PUBLIC COMMENTS ON ITEMS NOT APPEARING ON THE AGENDA

President Johnson called for public comment.

Jennifer Kindred spoke on comments at public meetings.

Chandra Caffroy, Homer spoke in support of Mayor Pierce and in opposition to regional segregation and hospital personnel.

The following people spoke in opposition to the hospital COVID-19 treatments:

Waynette Coleman, Happy Valley

Ray Southwell, Nikiski

Katherine Uei, Soldotna

Christine Hutchinson, Beaver Loop

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

[2021-19-33](#) An Ordinance Appropriating Additional Funds to Support Results of the Nikiski Senior Service Area FY2020 and FY2021 Due Diligence Audit or Review Cost Proposal (Mayor)

Cox moved to enact Budget Ordinance 2021-19-33.

President Johnson called for public comment.

George Pierce, Kasilof spoke in support of Budget Ordinance 2021-19-33.

The following people spoke in opposition to Budget Ordinance 2021-19-33:

Sasha Fallon, Nikiski Senior Center Director

Bill Hartline, Nikiski

Wayne Ogle, Nikiski

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

Assembly Member Bjorkman spoke in opposition to Budget Ordinance 2021-19-33.

The motion to enact Budget Ordinance 2021-19-33 failed by the following vote:

Yes: 1 - Elam

No: 7 - Bjorkman, Cox, Johnson, Derkevorkian, Chesley, Ecklund, and Tupper

Absent: 1 - Hibbert

[2021-41](#) An Ordinance Amending KPB 21.29, KPB 21.25, and KPB 21.50.055 Regarding Material Site Permits, Applications, Conditions, and Procedures (Mayor, Johnson)

(Elam, Derkevorkian) Substitute: An Ordinance Amending KPB 21.29, KPB 21.25, and KPB 21.50.055 Regarding Material Site Permits, Applications, Conditions, and Procedures (Elam, Derkevorkian)

Chesley moved to enact Ordinance 2021-41.

President Johnson called for public comment.

The following people spoke in opposition to Ordinance 2021-41:

Nikki Pererra

Ken Killian, Sterling

Ed Martin III

Emmitt Trimble, Anchor Point

Mary Trimble, Anchor Point
David Yragui, Kenai
Robert Peterkin, Kenai
Queen Parker, Sterling
Chandra Caffroy, Homer
Jake Denbrock, Sterling
Ann Hoffman, Sterling
Katherine Uei
Mike Rosso, Sterling
Hans Bilben, Anchor Point
Lynn Whitmore
Larry Smith
Gina Debardelaben

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

Elam moved to amend Ordinance 2021-41 as follows:

Section 3 to read,

"21.29.030 Application Procedure.

...

h. Location of any water body on the parcel, including the location of any riparian wetland as determined by best available data ["WETLAND MAPPING AND CLASSIFICATION OF THE KENAI LOWLAND, ALASKA" MAPS CREATED BY THE KENAI WATERSHED FORUM];"

Assembly Member Chesley spoke in favor of the amendment.

The motion to amend Ordinance 2021-41 carried by the following vote:

Yes: 8 - Bjorkman, Cox, Johnson, Derkevorkian, Elam, Chesley, Ecklund, and Tupper

Absent: 1 - Hibbert

Elam moved to amend Ordinance 2021-41 as follows:

Amend Section 2 to read,

"2.29.040 standards for sand, gravel or material sites.

A. These material site regulations are intended to protect against aquifer disturbance, road damage, physical damage to adjacent properties, dust, noise, and visual impacts.

[ONLY THE CONDITIONS SET FORTH IN KPB 21.29.050 MAY BE IMPOSED TO MEET THE STANDARDS:] The mandatory conditions of 21.29.050 are express conditions precedent to the granting of any conditional land use permit and after a public hearing, the planning commission must find, in writing, that the imposition of all the mandatory conditions under KPB 21.29.050 that the following standards are met:

1. [PROTECTS AGAINST THE LOWERING OF WATER SOURCES SERVING OTHER PROPERTIES;] The use is not inconsistent with the applicable comprehensive plan;
2. [PROTECTS AGAINST PHYSICAL DAMAGE TO [OTHER] ADJACENT PROPERTIES;] The use will preserve the value, spirit, character, and integrity of the surrounding area;
3. [[MINIMIZES] PROTECTS AGAINST OFF SITE MOVEMENT OF DUST;] The applicant has met all other requirements of this chapter pertaining to the use in question;
4. [[MINIMIZES] PROTECTS AGAINST NOISE DISTURBANCE TO OTHER PROPERTIES;]] That granting the permit will not be harmful to the public health, safety and general welfare; and
5. [[MINIMIZES] PROTECTS AGAINST VISUAL IMPACTS OF THE MATERIAL SITE; AND]] The sufficient setbacks, lot area, buffers or other safeguards are being provided to meet the conditions listed in KPB 21.29.050.
- [6. PROVIDES FOR ALTERNATE POST-MINING LAND USES[.];]
- [7. PROTECTS RECEIVING WATERS AGAINST ADVERSE EFFECTS TO FISH AND WILDLIFE HABITAT;]
- [8. PROTECTS AGAINST TRAFFIC IMPACTS; AND]
- [9. PROVIDES CONSISTENCY WITH THE OBJECTIVES OF THE KENAI PENINSULA BOROUGH COMPREHENSIVE PLAN AND OTHER APPLICABLE PLANNING DOCUMENTS.]"

Assembly Member Ecklund spoke in opposition to the amendment.

The motion to amend Ordinance 202141 failed by the following vote:

Yes: 4 - Bjorkman, Derkevorkian, Elam, and Tupper

No: 4 - Cox, Johnson, Chesley, and Ecklund

Absent: 1 - Hibbert

Elam gave notice of reconsideration to the amendment of Section 2, KPB 21.29.040(A).

Ecklund moved to amend Ordinance 2021-41 as follows:

Amend Section 2 to read,

"21.29.050 Permit Conditions.

A. The following mandatory conditions apply to counter permits and CLUPs issued for sand, gravel, or material sites:

...

2. Buffer Area. Material sites shall maintain buffer areas in accord with this section.

a. A buffer area of a maximum of 100 feet shall be established between the area of excavation and the parcel boundaries. The buffer area may include one or more of the following: undisturbed natural vegetation, a minimum six-foot fence, [A MINIMUM SIX-FOOT BERM] a minimum six-foot earthen berm with at least a 2/1 slope or a combination thereof."

The motion to amend Ordinance 2021-41 carried by the following vote:

Yes: 8 - Bjorkman, Cox, Johnson, Derkevorkian, Elam, Chesley, Ecklund, and Tupper

Absent: 1 - Hibbert

Assembly Members Ecklund moved to amend Ordinance 2021-41 as follows:

Amend Section 2 to read,

21.29.050. Permit conditions.

A. The following mandatory conditions apply to counter permits and CLUPs issued for sand, gravel, or material sites:

...

2. Buffer Area. Material sites shall maintain buffer areas in accord with this section.

c. Where an easement exists, a buffer shall not overlap the easement, unless otherwise conditioned by the planning commission or planning director, as applicable.

d. The vegetation and fence shall be of sufficient height and density to provide visual

and noise screening of the proposed use as deemed appropriate by the planning commission or the planning director.

Re-letter all remaining paragraphs.

The motion to amend Ordinance 2021-41 carried by the following vote:

Yes: 5 - Cox, Johnson, Chesley, Ecklund, and Tupper

No: 3 - Bjorkman, Derkevorkian, and Elam

Absent: 1 - Hibbert

Bjorkman moved to postpone Ordinance 2021-41 to February 1, 2022.

Assembly Member Cox spoke in opposition to postponement.

The motion to postpone Ordinance 2021-41 to February 1, 2022 carried by the following vote:

Yes: 5 - Bjorkman, Johnson, Derkevorkian, Elam, and Tupper

No: 3 - Cox, Chesley, and Ecklund

Absent: 1 - Hibbert

UNFINISHED BUSINESS

[2022-004](#) A Resolution Supporting the Constitutional Right of Alaska Grand Juries to Investigate and Make Recommendations on Public Welfare and Safety Concerns (Bjorkman, Elam) (Hearing on 01/18/22)

[Clerk's Note: The sponsors of Resolution 2022-004 requested introduction at the 01/04/22 meeting and public hearing at the 01/18/22 meeting.]

Bjorkman moved to adopt Resolution 2021-004.

President Johnson called for public comment.

The following people spoke in support of Resolution 2021-004:

David Haeg

Marty Anderson, Sterling

Ray Metcalfe

James Price, Nikiski

George Pierce, Kasilof

Patricia Write

Donovan Fritz, Funny River

Tom Submoski, Sterling

Douglas, Mackey Lake

Holly Sheldon Lee, Talkeetna

Michelle Williams
Chandra Caffroy, Homer
Clint Hall
David Bremmel
Scott Edgar
Garret Innes, Kenai

Assembly Members Bjorkman and Ecklund spoke in support of Resolution 2022-004.

Chesley moved to amend Resolution 2022-004 as follows:

Section 1 to read, "That the assembly supports the need for a mechanism for grand juries to investigate and make recommendations concerning the public welfare or safety pursuant to Article 1, Section 8 of the Constitution of the State of Alaska. The assembly requests the legislature enact [SB15 of the 31st LEGISLATURE, INTRODUCED BY SENATOR MICCICHE MARCH 2019, OR ENACT DIFFERENT] legislation that provides an adequate mechanism under state law for the public to trigger independent grand jury investigations.

The motion to amend Resolution 2022-004 carried as follows:

Yes: 8 - Bjorkman, Cox, Johnson, Derkevorkian, Elam, Chesley, Ecklund, and Tupper

Absent: 1 - Hibbert

The motion to adopt Resolution 2022-004 as amended carried by the following vote:

Yes: 8 - Bjorkman, Cox, Johnson, Derkevorkian, Elam, Chesley, Ecklund, and Tupper

Absent: 1 - Hibbert

NEW BUSINESS

1. Resolutions

[2022-007](#)

A Resolution Providing Input to the Alaska Department of Environmental Conservation on Proposed Changes to Regulations on Oil Discharge Prevention and Contingency Plans (Johnson, Chesley)

Bjorkman moved to adopt Resolution 2022-007:

President Johnson passed the gavel to President Pro Tem Cox and declared a possible conflict of interest as he has done oil spill clean up before and could do it again. Per legal advice, President Pro Tem Cox ruled a conflict did not exist. President Pro Tem returned the gavel to President Johnson.

President Johnson called for public comment.

The following people spoke in support of Resolution 2022-007:

Shaylon Cockrin, Cook Inlet Regional Citizens Advisory Council (CIRCAC)

Vinnie Catalano, Cook Inlet Regional Citizens Advisory Council (CIRCAC)

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

Cox moved to suspend the rules and extend the legislative deadline by one half hour until midnight.

The motion to suspend the rules carried by the following vote:

Yes: 8 - Bjorkman, Cox, Johnson, Derkevorkian, Elam, Chesley, Ecklund, and Tupper

Absent: 1 - Hibbert

The motion to adopt Resolution 2022-007 carried by the following vote:

Yes: 5 - Cox, Johnson, Chesley, Ecklund, and Tupper

No: 3 - Bjorkman, Derkevorkian, and Elam

Absent: 1 - Hibbert

MAYOR'S REPORT

[KPB-3867](#) Mayor's Report - Cover Memo

1. Assembly Requests/Responses
2. Agreements and Contracts
 - a. [KPB-3868](#) Authorization to Award a Contract for ITB22-025 Central Peninsula Hospital Sterile Radio Pharmaceuticals Processing Room to Blazy Construction, Inc.
 - b. [KPB-3869](#) Authorization to Award a Contract for RFP22-010 Homer High School Roof Phase 2 Professional Design Services to K+A Designstudios, Kenai, AK.
3. Other
 - a. [KPB-3870](#) Tax Adjustment Request Approval
 - b. [KPB-3871](#) Litigation Status Report - Quarter Ending 12/31/21

PUBLIC COMMENTS AND PUBLIC PRESENTATIONS

President Johnson called for public comment.

David Haeg, spoke in support of the passage of Resolution 2022-004.
Chandra Caffroy, Homer spoke on discrimination and segregation.
Wynette Coleman, spoke on monoclonal antibodies.

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

ASSEMBLY COMMENTS

Assembly Member Elam thanked everyone for attending the meeting and providing public testimony.

Assembly Member Bjorkman thanked the public for attending and sharing their thoughts throughout the evening. He stated he was hopeful that amendments would be made to the Material Site Ordinance. He would like the Assembly and Planning Department to work together on the Ordinance in a work session prior to the February 1, 2022 assembly meeting. He wished everyone a good night.

Assembly Member Derkevorkian thanked the members of the public for their involvement throughout the evening.

Assembly Member Tupper thanked everyone for their involvement throughout the evening.

Assembly Member Cox encouraged people to apply for the Kenai Peninsula Borough Planning Commission. He encouraged everyone to be kind to teachers and administrators. He wished everyone a good evening.

Assembly Member Ecklund stated her appreciation for the work that took place throughout the evening. She thanked the public for their participation.

Assembly Member Chesley encouraged members of the public to speak to the hospital boards directly.

President Johnson thanked Borough staff for their support throughout the night and the members of the public for their participation. He wished everyone a good night.

PENDING LEGISLATION

INFORMATIONAL MATERIALS AND REPORTS

ASSEMBLY MEETING AND HEARING ANNOUNCEMENTS

- 1. February 1, 2022 Regular Assembly Meeting
6:00 PM Betty J. Glick Assembly Chambers
Borough Administration Building 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 11:57 p.m.

I certify the above represents accurate minutes of the Kenai Peninsula Borough Assembly meeting of January 18, 2022.

Johni Blankenship, MMC, Borough Clerk

Approved by the Assembly: _____