



KENAI PENINSULA BOROUGH

PLANNING DEPARTMENT

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MIKE NAVARRE
BOROUGH MAYOR

M E M O R A N D U M

TO: Blaine Gilman, Assembly President
Kenai Peninsula Borough Assembly Members

THRU: Mike Navarre, Borough Mayor *MN*

FROM: Max Best, Planning Director *MB*

DATE: April 18, 2016

SUBJECT: Ordinance 2016-10; An ordinance placing a question on the ballot of whether the Kenai Peninsula Borough shall adopt a local option to prohibit the operation of any commercial marijuana establishment in the area of the Kenai Peninsula Borough outside of the cities.

The Kenai Peninsula Borough Planning Commission reviewed the subject Ordinance during their regularly scheduled April 11, 2016 meeting.

A motion failed by unanimous consent to recommend approval of Ordinance 2016-10; An ordinance placing a question on the ballot of whether the Kenai Peninsula Borough shall adopt a local option to prohibit the operation of any commercial marijuana establishment in the area of the Kenai Peninsula Borough outside of the cities.

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

Whereas, at its meeting of April 11, 2016, the Planning Commission recommended denial by unanimous consent.

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

KENAI PENINSULA BOROUGH PLANNING COMMISSION
LAND'S END RESORT
QUARTER DECK ROOM
4786 HOMER SPIT ROAD
HOMER, ALASKA 99603

April 11, 2016 - 7:30 P.M.

UNAPPROVED MINUTES

AGENDA ITEM A. CALL TO ORDER

Chairman Martin called the meeting to order at 7:30 p.m.

AGENDA ITEM B. ROLL CALL

Commissioners Present

Paulette Bokenko-Carluccio, City of Seldovia
JoAnne Collins, Anchor Point / Ninilchik
Cindy Ecklund, City of Seward
Robert Ernst, Northwest Borough
Rick Foster, Southwest Borough
James Glendening, City of Kenai
Sandra Holsten, East Peninsula
James Isham, Sterling
Harry Lockwood, Ridgeway
Blair Martin, Kalifornsky Beach
Robert Ruffner, Clam Gulch / Kasilof
Franco Venuti, City of Homer
Paul Whitney, City of Soldotna

With 13 members of a 13 member Commission in attendance, a quorum was present.

Staff Present

Max Best, Planning Director
Tom Dearlove, River Center Manager
Patti Hartley, Administrative Assistant
Carrie Henson, E911 Addressing Officer
Karyn Noyes, River Center Manager

Others Present

Jeffery Erickson
Robert Stecker
Dennis Tidwell
Terry Tidwell
Joseph Tolotta

AGENDA ITEM F. PUBLIC HEARINGS

2. Ordinance 2016-10; An ordinance placing a question on the ballot of whether the Kenai Peninsula Borough shall adopt a local option to prohibit the operation of any commercial marijuana establishment in the area of the Kenai Peninsula Borough outside of the cities.

Staff Report given by Max Best

PC Meeting: 4/11/16

This ordinance is proposed because Mr. Welles has been approached by numerous members of the public requesting that the assembly pass an ordinance banning all commercial marijuana establishments in the

borough. Although the assembly is authorized to do this by law, in my opinion the better approach is to put this question out to the vote of the residents of the borough in the area outside the cities. As can be seen in the attached map and table showing the results of the election held in November 2014 on proposition 2, the vote was very close in the areas outside of the cities. Although we cannot be certain due to the absentee, question, and early voting ballots, it appears likely that most areas outside of the cities voted against that proposition. Due to the closeness of the vote, it is appropriate for these voters to make a determination as to whether to prohibit commercial marijuana operations outside of the cities.

The initiative that was approved by the state does give local municipalities the option to adopt a local option that would prohibit the commercial sale and testing of marijuana in their boundaries. The regulations adopted by the state also require that if a local option is approved then all existing issued licenses shall become void 90 days after the date the results of the election are certified.

Favorable consideration of this ordinance would be appreciated.

This ordinance was scheduled to be introduced at the last Assembly meeting of April 5, 2016. Public testimony was held until midnight where by their rules it was suspended. This will be taken to the next Assembly meeting in Seward and then brought back to the Central Peninsula for the following meeting. This could be before the Planning Commission for the next couple of meetings if they desired it to be.

END OF MEMORANDUM & 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 Carluccio moved, seconded by Commissioner Isham to recommend approval of Ordinance 2016-10, an ordinance placing a question on the ballot of whether the Kenai Peninsula shall adopt a local option to prohibit the operation of any commercial marijuana establishment in the area of the Kenai Peninsula Borough outside of the cities.

Commissioner Whitney stated that this ordinance will affect everyone whether someone lives inside the city or outside the city. His felt that this should go to everyone in the borough if this was placed on a ballot because it is a borough wide issue.

Commissioner Ernst stated that this has been going on for over a year and has been voted on. People of Alaska have voted on this and it needs to be let go to see what happens. If there is a problem then it can be revisited at that time. It is very frustrating to him that there are so many hindrances thrown up to this potentially revenue generating business. He thought it was ridiculous on how many impediments that have been thrown up to the operation and development of this economic resource potential.

Commissioner Lockwood agreed and stated that he remembered the taskforce people who testified at a previous meeting. He asked them how they could start a business when the legislature could come along and vote it out again. It is very unstabling for those people who are trying to be entrepreneurs.

Commissioner Holsten stated that she did not vote for marijuana and felt it was not a good choice however the people voted. It's over and suggested they move on. She stated she represents three communities of Moose Pass, Cooper Landing and Hope. Each of those communities did not vote the same as shown on the voting map that was included in the packet. Commissioner Holsten wondered how they could start dividing the borough up by rural or kind of rural. She stated she will be voting no on the motion.

Commissioner Venuti agreed with the comments given by the other commissioners. This ordinance is really unfair since there have been people who have made investments in this. If this passes then the only winner will be the black market. There were two letters included in the PC packet and he echoed the sediments that were expressed in those written comments. He felt this was underhanded and appeared to be sneaking politics and would not vote for this ordinance.

Commissioner Isham asked if it was correct that the Assembly has not made a decision on this. Mr. Best replied that was correct. Commissioner Isham asked if this was premature for them to do anything until the Assembly does it. Mr. Best replied that if it fails to be introduced then no action is needed. If it gets introduced then it will come back. Commissioner Isham wondered if they should postpone action until a decision is made by the Assembly.

Commissioner Ruffner stated that he would vote against postponement. This is a ridiculous ordinance and suggested to withdraw this and move on. He stated he was a solid no on this approval of this ordinance.

Commissioner Foster agreed. When he teaches and wants something to come out a certain way then he keeps asking the question until the vote comes out to way he wants it to. He stated it looks like Kachemak City may be the only place someone could purchase marijuana if this thing goes through and City of Homer votes it down.

Commissioner Ecklund stated that with the economic condition of the State right now putting something on the ballot is very costly. She stated that the reason they wanted to change the law was so that people who have a small amount of marijuana wouldn't be thrown into jail. She stated she would be voting against the motion.

Chairman Martin stated that the Borough Comprehensive Plan specifically states that the borough is tasked with promoting agricultural development. He has always been outspoken proponent of any type of diversity of agricultural.

Commissioner Glendening stated that the City of Kenai was allowing these activities even though it passed narrowly by 16 votes. Two precincts were against it and one precinct was for it. He represents the City of Kenai therefore cannot stand for having this brought up. Commissioner Glendening stated it was after the fact and he echoed the sentiments of the others. Personally, he would rather not mess with it but from the city that he represents it was improvident to have this ordinance.

There being no further comments or questions, Chairman Martin called for a roll call vote.

VOTE: The motion failed by unanimous consent.

CARLUCCIO NO	COLLINS NO	ECKLUND NO	ERNST NO	FOSTER NO	GLENDENING NO	HOLSTEN NO
ISHAM NO	LOCKWOOD NO	MARTIN NO	RUFFNER NO	VENUTI NO	WHITNEY NO	0 YES 13 NO

AGENDA ITEM F. PUBLIC HEARINGS

- 3. Ordinance 2016-12; An ordinance amending KPB 7.30.020 to change the way minimum distances are measured between marijuana establishments and schools, churches and correctional facilities, and imposing minimum distances between marijuana establishments and local option zoning districts.

Staff Report given by Max Best

PC Meeting: 4/11/16

This ordinance provides that the distance between a licensed marijuana establishment and a school, a place of public worship, a youth center and a correctional facility would be determined by measuring the distance between the licensed premises property line and the outer parcel boundaries of the other location. In Mr. Welles view this is a much simpler way of measuring the distance than following the pedestrian route from the public entrance of the licensed premises building to the outer boundaries of the property where the school or other facilities are located. It also adds a new provision that would prohibit a marijuana establishment from being located within 500 feet of an existing local option zoning district. Mr. Welles thought this was important to support the purpose of local option zoning districts in which licensed marijuana establishments are no longer authorized under KPB 7.30.020(B)(3).

The way it is measured now would be from the establishment's door and as a pedestrian walks to the entrance of the other facility. It would be door to door with the distance being 500 feet. If it was a school then it would