



Kenai Peninsula Borough

144 North Binkley Street
Soldotna, AK 99669

Meeting Minutes - Final

Assembly

Brent Johnson, President

Tyson Cox, Vice President

Lane Chesley

Richard Derkevorkian

Cindy Ecklund

Bill Elam

Brent Hibbert

Peter Ribbens

Mike Tupper

Tuesday, May 16, 2023

6:00 PM

Betty J. Glick Assembly Chambers

Meeting ID: 884 7373 9641 Passcode: 671108

CALL TO ORDER

PLEDGE OF ALLEGIANCE

INVOCATION

[Clerk's Note: The invocation was given by Wayne Ogle.]

ROLL CALL

Present: 8 - Brent Hibbert, Bill Elam, Lane Chesley, Cindy Ecklund, Mike Tupper, Brent Johnson, Tyson Cox, and Peter Ribbens

Excused: 1 - Richard Derkevorkian

Also present were:

Peter Micciche, Borough Mayor

Brandi Harbaugh, Finance Director

Sean Kelley, Borough Attorney

Michele Turner, Acting Borough Clerk

Cactus Moloney, Deputy Borough Clerk

COMMITTEE REPORTS

Assembly Member Hibbert stated the Committee of the Whole met on May 15, 2023 for Budget Work Session #3.

*[6 Present: Cox, Ecklund, Hibbert, Ribbens, Tupper, Johnson / 3 Excused
Absences: Derkevorkian, Elam, Chesley]*

Assembly Member Hibbert stated the Committee of the Whole met on May 16, 2023

for Budget Work Session #4.

*[7 Present: Cox, Chesley, Ecklund, Hibbert, Ribbens, Tupper, Johnson / 3
Excused Absences: Derkevorkian, Elam]*

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

*[8 Present: Cox, Chesley, Ecklund, Elam, Hibbert, Ribbens, Tupper, Johnson / 1
Excused Absences: Derkevorkian]*

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

*[8 Present: Cox, Chesley, Ecklund, Elam, Hibbert, Ribbens, Tupper, Johnson / 1
Excused Absences: Derkevorkian]*

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

*[8 Present: Cox, Chesley, Ecklund, Elam, Hibbert, Ribbens, Tupper, Johnson / 1
Excused Absence: Derkevorkian]*

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

*[8 Present: Cox, Chesley, Ecklund, Elam, Hibbert, Ribbens, Tupper, Johnson / 1
Excused Absence: Derkevorkian]*

Assembly Member Chesley stated the Material Site Subcommittee met and discussed its agenda items.

*[8 Present: Cox, Chesley, Ecklund, Elam, Hibbert, Ribbens, Tupper, Johnson / 1
Excused Absence: Derkevorkian]*

APPROVAL OF AGENDA AND CONSENT AGENDA

Cox moved to approve the agenda and consent agenda.

Copies have been made available to the public, Acting Borough Clerk Michele Turner noted by title only the resolutions, ordinances and other new business items that were on the consent agenda.

[KPB-5169](#)

May 2, 2023 Regular Assembly Meeting Meetings
approved.

[KPB-5214](#) LAYDOWN A Resolution in Memoriam Commending the Contributions of Christine Angela Byerly Hutchinson (Mayor, Elam)
This Commending Resolution was adopted.

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

[2022-19-67](#) An Ordinance Appropriating Additional Funds from the North Peninsula Service Area Operating Fund for Upgrades to the Nikiski Pool Boiler System (Mayor)
This Budget Ordinance was enacted.

[2022-19-68](#) An Ordinance Accepting \$708,714.62 and Appropriating \$424,979 from the State of Alaska Division of Homeland Security and Emergency Management to Repair Dieckgraeff Road (Mayor)
This Budget Ordinance was enacted.

[2022-19-69](#) An Ordinance Appropriating Additional Funds from the General Fund for the Replacement of the Borough Administration Building Roof and Roof Drainage System (Mayor)
This Budget Ordinance was enacted.

[2022-19-70](#) An Ordinance Accepting and Appropriating Additional Funds from the State of Alaska in the Amount Of \$671,947 for the Healthy and Equitable Communities Program Grant (Mayor)
This Budget Ordinance was enacted.

[2023-10](#) An Ordinance Authorizing the Sale of Substandard-Sized Lots Obtained by the Kenai Peninsula Borough Through Tax Foreclosure and Previously Retained for a Public Purpose (Mayor)
This Ordinance was enacted.

New Business

[2023-038](#) A Resolution Authorizing the Assessor to Accept One Late-Filed Disabled Veteran Exemption Application and One Late Filed VA Disability Documentation (Mayor)
This Resolution was adopted.

[2023-039](#) A Resolution Approving Twenty-Five Unincorporated Communities for

Participation in the State's Fiscal Year 2024 Community Assistance Program (Mayor)

The Resolution was adopted.

[2022-19-72](#) An Ordinance Accepting and Appropriating Additional "Year One" and "Year Two" Opioid Settlement Funds for the Opioid Settlement Fund Program (Mayor)

This Budget Ordinance was introduced and set for public hearing.

[2023-12](#) An Ordinance Amending Code Relating to Bonding, Equal Opportunity Employment, Protection Against Certain Conduct, Liability For Conduct, and Indemnification (Mayor) (Hearing on 06/20/23)

This Ordinance was introduced and set for public hearing.

[KPB-5177](#) Petition to Vacate a Portion of Perkins Road and Associated Utility Easements Granted on Stanley's Meadow Vikki's Replat, Plat HM 99-30 Fritz Creek Area KPB File 2023-024V (Referred to Lands Committee)

[Clerk's Note: At its regularly scheduled meeting of the Kenai Peninsula Borough Planning Commission on May 8, 2023 the proposed vacation was approved by unanimous consent.]

approved.

[KPB-5178](#) Confirming Appointment to the Funny River Advisory Planning Commission (Mayor)

Joireen Cohen Seat E Term to Expire: 09/30/2024

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 - Hibbert, Elam, Chesley, Ecklund, Tupper, Johnson, Cox, and Ribbens

Absent: 1 - Derkevorkian

COMMENDING RESOLUTIONS AND PROCLAMATIONS

[KPB-5214](#) LAYDOWN A Resolution in Memoriam Commending the Contributions of Christine Angela Byerly Hutchinson (Mayor, Elam)

[Clerk's Note: Mayor Micciche read the commending resolution and stated it was to be presented to Hutchison's family at the memorial.]

PRESENTATIONS WITH PRIOR NOTICE

PUBLIC COMMENTS ON ITEMS NOT APPEARING ON THE AGENDA

President Johnson called for public comment.

The following people addressed the assembly regarding the Kalifornsky Beach area flooding.

Laura Burke, Buoy Ave.

Toby Burke, Buoy Ave.

Tamara Serr, K-Beach

Mike Hebrank

Nissa Fowler, Patrick Dr.

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

[2023-19](#)

An Ordinance Amending Appropriating Funds for Fiscal Year 2024 (Mayor)

Hibbert moved to enact Ordinance 2023-19.

President Johnson called for public comment with none being offered.

Hibbert moved to amend Ordinance 2023-19 as follows:

Add a third Whereas clause to read, "**updates to the Borough's fee schedule will be effective July 1, 2023, except for the updates pertaining to Solid Waste fees which will be effective January 1, 2024;**"

Amend Section 15 to read, "That the fee schedule presented in the budget document is approved. **The fee schedule is effective July 1, 2023, except for the changes to the Solid Waste fees which will be effective on January 1, 2024.**"

Amend Section 16 to read, "~~That this ordinance takes effect at 12:01 a.m. on July 1, 2023.~~ **Notwithstanding KPB 5.22.040, which provides that grant funds for senior citizen centers and adult day care centers will be distributed proportionately to the number of person served be each existing center in relation to the total number being served by all centers that have applied for**

funding, the grant funds distributed pursuant to KPB Chapter 5.22 will be distributed as set out in this ordinance and budget document for FY24."

The motion to amend Ordinance 2023-19 carried by the following vote:

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

Absent: 1 - Derkevorkian

Hibbert moved to amend the FY2024 budget document as follows:

Page 149, Economic Development, increase line item 100.94900.000000.43009
"Economic Development District," \$25,000.

The motion to amend the FY2024 budget document carried by the following vote:

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

Absent: 1 - Derkevorkian

Cox moved to amend the FY2024 budget document as follows:

Page 149, Economic Development, increase line item 100.94900.000000.43011
"Small Business Development Center," \$10,000.

The motion to amend the FY2024 budget document carried by the following vote:

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

Absent: 1 - Derkevorkian

Hibbert moved to postpone Ordinance 2023-19 as amended to June 6, 2023.

The motion to postpone Ordinance 2023-19 as amended carried by the following vote:

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

Absent: 1 - Derkevorkian

UNFINISHED BUSINESS

Postponed Items

[2022-46](#)

An Ordinance Amending KPB 21.02.230 to Modify the Boundaries of the Nikiski Advisory Planning Commission (Johnson, Ecklund, Tupper)
[Postponed from 04/18/23]

[Clerk's Note: The motion to enact was on the floor from the 02/21/23 meeting.]

Ribbens moved to amend Ordinance 2022-46 as follows:

Amend Section 1 to read, "**21.02.230. Nikiski Advisory Planning Commission.**
An advisory planning commission is established for the community of the borough

known

as Nikiski with boundaries as follows:

[COMMENCING AT THE TOWNSHIP LINE BETWEEN T5N AND T6N R17W S.M., AND THE MEAN HIGH WATER LINE ON THE WESTERLY SHORE OF COOK INLET; THENCE WESTERLY ALONG THE TOWNSHIP LINE BETWEEN T5N AND T6N TO THE WESTERLY BOUNDARY OF THE KENAI PENINSULA BOROUGH;

THENCE NORTHERLY AND EASTERLY ALONG THE BOUNDARY OF THE KENAI PENINSULA BOROUGH THROUGH COOK INLET TO THE PROTRACTED NORTHEAST CORNER OF T11N R5W IN TURNAGAIN ARM;

THENCE SOUTHEASTERLY TO THE INTERSECTION OF THE SOUTHERLY MEAN HIGH WATER LINE OF TURNAGAIN ARM AND THE 150TH MERIDIAN WEST OF GREENWICH WITHIN T10N R4W S.M.;

THENCE SOUTHERLY ALONG THE 150TH MERIDIAN TO THE TOWNSHIP LINE BETWEEN T8N AND T9N R4W;

THENCE WESTERLY ALONG THE TOWNSHIP LINE BETWEEN T8N AND T9N TO THE NORTHWEST CORNER OF T8N R9W S.M.;

THENCE SOUTHERLY ALONG THE RANGE LINE BETWEEN R9W AND R10W TO THE SOUTHEAST CORNER OF T6N R10W S.M.;

THENCE WESTERLY ALONG THE TOWNSHIP LINE BETWEEN T5N AND T6N TO THE SOUTHEAST CORNER OF SECTION 32 T6N R10W;

THENCE NORTHERLY ALONG THE SECTION LINE BETWEEN SECTIONS 32 AND 33 TO THE NORTHEAST CORNER OF SECTION 32;

THENCE WESTERLY ALONG THE SECTION LINE TO THE NORTHWEST CORNER OF SECTION 31 T6N R10W ON THE CORPORATE BOUNDARY OF THE CITY OF KENAI;

THENCE NORTHERLY AND WESTERLY ALONG THE CORPORATE BOUNDARY OF THE CITY OF KENAI TO THE INTERSECTION WITH THE MEAN LOW WATER LINE OF COOK INLET AND THE SECTION LINE BETWEEN SECTIONS 23 AND 26 T6N R12W S.M.;

THENCE WESTERLY ALONG THE SECTION LINE EXTENDED THREE MILES INTO COOK INLET;

THENCE SOUTHWESTERLY TO THE PROTRACTED SOUTHEAST CORNER OF T6N R14W IN COOK INLET;

THENCE WESTERLY ALONG THE PROTRACTED TOWNSHIP LINE BETWEEN T5N AND T6N TO THE MEAN HIGH WATER LINE ON THE WESTERLY SHORE OF COOK INLET THE TRUE POINT OF BEGINNING.]

[Beginning at the intersection of the southerly mean high water line of Turnagain Arm and the 150th meridian west of Greenwich within T10N R4W S.M.;

Thence southerly along the 150th meridian to the township line between T8N and T9N R4W;

Thence westerly along the township line between T8N and T9N to the northwest corner of T8N R9W S.M.;

Thence southerly along the range line between R9W and R10W to the southeast corner of T6N R10W S.M.;

Thence westerly along the township line between T5N and T6N to the southeast corner of Section 32 T6N R10W;

Thence northerly along the section line between Sections 32 and 33 to the northeast corner of Section 32;

Thence westerly along the section line to the northwest corner of Section 31 T6N R10W on the corporate boundary of the city of Kenai;

Thence northerly and westerly along the corporate boundary of the city of Kenai to the intersection with the mean high water line of Cook Inlet and the section line between Sections 23 and 26 T6N R12W S.M.;

Thence northerly and easterly along the mean high water line on the easterly shore of Cook Inlet, and easterly along the southerly mean high water line of Turnagain Arm, to the point of beginning.]

Commencing at the township line between T5N and T6N R17W S.M., and the mean high-water line on the westerly shore of Cook Inlet;

Thence westerly along the township line between T5N and T6N to the westerly boundary of the Kenai Peninsula Borough to the Southwest corner of Section 31 T6N R18W S.M., located on the East boundary of Lake Clark National Park and Preserve;

Thence northerly, easterly and northerly to the north boundary line of the Kenai Peninsula Borough, also being the Northeast corner of Lake Clark National Park and Preserve being at the Northeast corner of T15N R21W S.M.;

Thence easterly along the north boundary line of the Kenai Peninsula Borough to the Northeast corner of Section 1 T15N R15W S.M.;

Thence southerly along the range line between R14W and R15W to the southeast corner of Section 36 T15N R15W S.M.;

Thence westerly along the township line between T14N and T15N to the southwest corner of Section 31 T15N R15W S.M.;

Thence southerly along the range line between R15W and R16W to the southwest corner of Section 31 T13N R15W S.M.;

Thence easterly along the township line between T12N and T13N the to northeast corner of Section 1 T12N R16W S.M.;

Thence southerly along the range line between R15W and R16W to the southwest corner of Section 31 T12N R15W S.M.;

Thence easterly along the township line between T11N and T12N to the southeast corner of Section 36 T12N R14W S.M.;

Thence northerly along the range line between R13W and R14W to the northeast corner of Section 1 T12N R14W S.M.;

Thence westerly to the township line between T12N and T13N to the

Southwest corner of Section 31 T13N R13W S.M.;
Thence northerly along the line between range R13W and R14W to the northwest corner of Section 6 T13N R13W S.M.;
Thence easterly along the township line between T13N and T14N to the northeast corner of Section 1 T13N R13W S.M.;
Thence northerly along the range line between R12W and R13W to the northwest corner of Section 6 T14N R12W S.M.;
Thence easterly along the township line between T14N and T15N to the northeast corner of Section 1 T14N R12W S.M.;
Thence southerly of the range line between R11W and R12W to the southeast corner of Section 36 T14N R12W S.M.;
Thence easterly along the township line between T13N and T14N to the northeast corner of Section 1 T13N R11W S.M.;
Thence southerly along the range line between R10W and R11W to the southeast corner of Section 36 T13N R11W W.M.;
Thence westerly along the township line between T12N and T13N to the northeast corner of Section 1 T12N R13W S.M.;
Thence southerly along the range line between R12W and R13W to the southeast corner of Section 36 T12N R13W S.M.;
Thence westerly along the township line between T11N and T12N to the northwest corner of Section 6 T11N R13W S.M.;
Thence southerly along the range line between R13W and R14W to the southeast corner of Section 36 T11 r14W S.M.;
Thence easterly along the township line between T10N and T11N to the northeast corner of Section 6 T10N R09W S.M.;
Thence northerly along the range line between R09W and R10w to the northwest corner of Section 6 T11N R09W S.M.;
Thence easterly along the township line between T11N and T12N and the boundary of the Kenai Peninsula Borough through Cook Inlet to the protracted northeast corner of T11N R5W in Turnagain Arm;
Thence southeasterly to the intersection of the southerly mean high water line of Turnagain Arm and the 150th meridian west of Greenwich within T10N R4W S.M.;
Thence southerly along the 150th meridian to the township line between T8N and T9N R4W;
Thence westerly along the township line between T8N and T9N to the northwest corner of T8N R9W S.M.;
Thence southerly along the range line between R9W and R10W to the southeast corner of T6N R10W S.M.;
Thence westerly along the township line between T5N and T6N to the southeast corner of Section 32 T6N R10W;
Thence northerly along the section line between Sections 32 and 33 to the northeast corner of Section 32;

Thence westerly along the section line to the northwest corner of Section 31
Thence northerly and westerly along the corporate boundary of the city of
Kenai to the intersection with the mean low water line of Cook Inlet and the
section line between Sections 23 and 26 T6N R12W S.M.;
Thence westerly along the section line extended three miles into Cook Inlet;
Thence southerly to the intersection with the township line between T5N and
T6N S.M.;
Thence westerly along the township line between T5N and T6N to the mean
high water line on the westerly shore of Cook Inlet the true point of
beginning;
EXCEPT T07N R14W and T08N R14W and Sections 32 and 33 T09N R14W
S.M.”

Amend Section 2 to read, “That the Borough Planning Department and the Clerk are authorized to make technical and clerical changes to the legal description of the boundaries described in Section 1 to comport with the attached map and to amend the appropriate section of code accordingly.”

Add a new Section 3 to read, “That this ordinance shall be effective immediately upon enactment.”

President Johnson passed the gavel to Vice President Cox and spoke in opposition to the amendment. Vice President Cox returned the gavel to President Johnson.

The motion to amend Ordinance 2022-46 failed by the following vote:

Yes: 4 - Hibbert, Elam, Chesley, and Ribbens

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

Absent: 1 - Derkevorkian

The motion to enact Ordinance 2022-46 carried by the following vote:

Yes: 6 - Hibbert, Chesley, Ecklund, Tupper, Johnson, and Cox

No: 2 - Elam, and Ribbens

Absent: 1 - Derkevorkian

MAYOR’S REPORT

[KPB-5162](#) Mayor's Report to the Assembly

1. Assembly Requests/Responses - None.
2. Agreements and Contracts

- a. [KPB-5163](#) Authorization to Award a Contract for RFP23-015 Quartz Creek Municipal Entitlement Survey
 - b. [KPB-5164](#) Milliman Sole Source Waiver
 - c. [KPB-5165](#) Authorization to Award a Contract for ITB23-037 Digital Signage CES Station 3
3. Other
- a. [KPB-5166](#) Tax Adjustment Request Approval
 - b. [KPB-5167](#) Revenue- Expenditure Report - April 2023
 - c. [KPB-5168](#) Budget Revisions - April 2023

PUBLIC COMMENTS AND PUBLIC PRESENTATIONS

President Johnson called for public comment.

Karen McGahan, Nikiski spoke in opposition to Ordinance 2022-46.

Joan Corr, Soldotna addressed the Assembly regarding K-Beach flooding .

Lindsey Bertholdo, Nikiski addressed the Assembly regarding election processes.

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

ASSEMBLY COMMENTS

Assembly Member Elam thanked everyone for a great night. He thanked the staff for their efforts during the budget process. Mr. Elam stated he recently attended end of year field trips with his children and encouraged others to participate. Mr. Elam wished everyone a good night.

Assembly Member Hibbert stated the Assembly attended twenty-two meetings in two days and that everyone involved did a great job. He thanked Mayor Micciche for being a great leader and Mr. Chesley for chairing the Material Site Subcommittee. Mr. Hibbert stated he appreciated the Assembly for the work they did during the budget process.

Assembly Member Tupper thanked the department heads who spoke during the

Budget Work Sessions and stated he was impressed by the level of talent at the borough. He reminded everyone to submit public comment regarding the Homer Harbor Expansion; work sessions were held at the Islands and Oceans Visitor Center in Homer. Mr. Tupper wished everyone a good night.

Assembly Member Ribbens stated he was disappointed with the vote on Ordinance 2022-46. He said he was proud to represent Nikiski and congratulated a job well done to the Nikiski service areas' budget presentations. He stated how much he appreciated the Nikiski Area Planning Commission's work and passion.

Assembly Member Chesley stated he, Mayor Micciche and Mr. Tupper listened to a South Kenai Peninsula Hospital Service Area Board meeting regarding a bonding initiative for the next election. He stated engagement was important through the process. He asked the Assembly to extend an invitation to the hospital board and the executive team to give a presentation at a June 6, 2023 committee meeting to communicate the hospital's needs, generate discussion, comments, and direction.

Assembly Member Ecklund spoke about the child care crisis in Alaska and on the Kenai Peninsula. She and Mr. Tupper invited Stephanie Berglund, Thread CEO, for a ten minute presentation at the June 6, 2023 Assembly Meeting. Ms. Ecklund stated she planned to discuss options for childcare funding with Borough Attorney Sean Kelley. She thanked the Mayor and staff for their hard work. She thanked Mr. Hibbert for chairing the Budget Work Sessions and Mr. Chesley for chairing the Material Site Subcommittee.

Vice President Cox stated he attended the Soldotna High School graduation and the after graduation party May 15, 2023, with more than one hundred students participating. He stated many great donations were received from the community and local businesses.

President Johnson stated he also attended the Soldotna High School graduation. He stated he felt good about the direction the Assembly and Mayor Micciche were heading. He thanked Steve Peskosky, CEO of Tyonek Native Association, for attending the meeting. Mr. Johnson stated he was glad to reconnect with former Assembly Member Wayne Ogle. Mr. Johnson read a poem regarding invocations.

INFORMATIONAL MATERIALS AND REPORTS

ASSEMBLY MEETING AND HEARING ANNOUNCEMENTS

1. June 6, 2023 3:00 PM
Material Subcommittee Meeting
Betty J. Glick Assembly Chambers
Borough Administration Building
Remote participation available through Zoom
Meeting ID: 884 7373 9641 Passcode: 671108

2. June 6, 2023 6:00 PM
Regular Assembly Meeting
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 8:24 p.m.

I certify the above represents accurate minutes of the Kenai Peninsula Borough Assembly meeting of May 16, 2023.

Michele Turner, CMC, Acting Borough Clerk

Approved by the Assembly: _____