



Kenai Peninsula Borough

144 North Binkley Street
Soldotna, AK 99669

Meeting Minutes - Draft

Assembly

Brent Johnson, President

Brent Hibbert, Vice President

Jesse Bjorkman

Lane Chesley

Tyson Cox

Richard Derkevorkian

Cindy Ecklund

Bill Elam

Mike Tupper

Tuesday, May 3, 2022

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 Carrie Henson.]

ROLL CALL

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

Also present were:

Charlie Pierce, Borough Mayor

Aaron Rhoades, Chief of Staff

Sean Kelley, Borough Attorney

Brandi Harbaugh, Finance Director

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 Elam 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 items.

APPROVAL OF AGENDA AND CONSENT AGENDA

Vice President Hibbert moved to approve the agenda and consent agenda.

President Johnson called for public comment.

Willy Dunne, Fritz Creek spoke in support of postponing Ordinance 2021-19-50 to August, 2022.

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

Copies have been made available to the public, Borough Clerk Johni Blankenship noted by title only the resolutions and ordinances on the consent agenda.

[KPB-4162](#) April 19, 2022 Regular Assembly Meeting Minutes
approved.

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

[2021-19-48](#) An Ordinance Appropriating Supplemental Funding to Complete the Air Conditioner Unit Replacement Project Located in the Emergency Response Center Server Room (Mayor) (Hearing on 05/03/22)
This Budget Ordinance was enacted.

New Business

[2022-028](#) A Resolution Determining the Amount to be Provided from Local Sources for School Purposes During Fiscal Year 2023 and Approving the Kenai Peninsula Borough School District Total Budget (Mayor)
[Clerk's Note: Assembly Member Cox disclosed that his wife was employed by the school district. Assembly Member Bjorkman disclosed he was employed by the school district. Assembly Member Ecklund disclosed she was employed by the school district.]

This Resolution was adopted.

[2022-029](#) A Resolution Approving a Drainage Installation and Work Agreement with Bunkhouse Properties, LLC in Cooper Landing (Mayor)

This Resolution was adopted.

[2021-19-49](#) An Ordinance Appropriating Additional Funds to Pay Fees Associated with Collection of Remote Sales Tax (Mayor) (Hearing on 05/17/22)

This Budget Ordinance was introduced and set for public hearing.

[2021-19-51](#) An Ordinance Appropriating Funds from the Land Trust Fund, Fund Balance, for a Project to Conduct Soils Investigations and Land Planning on the 1,000-Acre Unit 395, Juneau Bench, Near Cooper Landing (Mayor) (Hearing on 05/17/22)

This Budget Ordinance was introduced and set for public hearing.

[2021-19-52](#) An Ordinance Appropriating Mission, Vision, Values, Brand Identity, and Logo Development Funds (Mayor) (Hearing on 05/17/22)

This Budget Ordinance was introduced and set for public hearing.

[2022-19](#) An Ordinance Appropriating Funds for Fiscal Year 2023 (Mayor) (Hearings on 05/17/22 and 06/07/22)

[Clerk's Note: A budget presentation will be given by Brandi Harbaugh, Finance Director during Finance Committee. (45 minutes)]

This Budget Ordinance was introduced and set for public hearing.

[2022-10](#) An Ordinance Authorizing a Three-Party Agreement and Real Property Lease with Verizon Wireless and Alaska Pipeline Company (Mayor) (Hearing on 05/17/22)

This Ordinance was introduced and set for public hearing.

[2022-11](#) An Ordinance Authorizing Emergency Harvest of Spruce Bark Beetle Impacted Forestlands Including Spruce which are Dying, or Susceptible to Dying, and Establishing a Framework to Guide Forest Treatments (Mayor) (Hearing on 05/17/22)

This Ordinance was introduced and set for public hearing.

[2022-12](#) An Ordinance Amending KPB 2.60.040 Related to the Emergency Services Communications Center Advisory Board and Reactivating the Advisory Board (Mayor) (Hearing on 06/07/22)

This Ordinance was introduced and set for public hearing.

[2022-13](#) An Ordinance Amending KPB 21.46.040 to Repeal the Kalifornsky Center Single Family Residential (R1) Local Option Zoning District (Mayor) (Hearing on 06/07/22)

This Ordinance was introduced and set for public hearing.

[KPB-4015](#) Approving the Issuance of a Letter of Non-Objection for a New Outdoor Recreation Seasonal Liquor License Application filed by Jimmie Jack's Alaska SeaScape Lodge, License No. 6038

approved.

[KPB-4016](#) Approving the Issuance of a Letter of Non-Objection for a New Outdoor Recreation Seasonal Liquor License Application filed by Deep Creek Fishing Club, License No. 6042

approved.

[KPB-4156](#) Petition to Vacate a Portion of Symphony Lane Associated with C L Hatton Subdivision Eagle's Crest Addition

[Clerk's Note: The Planning Commission approved the referenced petition to vacate at its April 11, 2022 meeting by unanimous consent.]

approved

[KPB-4155](#) Confirming an Appointment to the Resilience and Security Advisory Commission (Mayor)

Kenneth Swazer, Central Peninsula Seat, Term Expires September 30, 2022

approved.

Approval of the Agenda and Consent Agenda

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

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

PRESENTATIONS WITH PRIOR NOTICE

1. [KPB-4163](#) Seward Bear Creek Flood Service Area Annual Report, Stephanie Presley, Program Lead (10 minutes)

[Clerk's Note: Stephanie Presley, Program Lead presented the Seward Bear

Creek Flood Service Area annual report to the Assembly via Zoom.]

2. [KPB-4164](#) Central Peninsula Hospital Quarterly Report (10 minutes)

[Clerk's Note: Rick Davis, CEO presented Central Peninsula Hospital's quarterly report to the Assembly.]

PUBLIC COMMENTS ON ITEMS NOT APPEARING ON THE AGENDA

President Johnson called for public comment.

Clayton Holland, Kenai Peninsula Borough School District Superintendent stated he appreciated the continued commitment between the borough and school district to improve communications.

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

PUBLIC HEARINGS ON ORDINANCES

[2022-08](#) An Ordinance Amending KPB 5.12.116 to Broaden Economic Development Property Tax Exemption for Independent Power Producers (Johnson, Cox) (Hearing on 05/03/22) (Referred to Policies and Procedures Committee)

Chesley moved to enact Ordinance 2022-08.

President Johnson called for public comment.

The following people spoke in support of Ordinance 2022-08:

Jenn Miller, Renewable IPP

Paul Seaton, Kachemak City

Randy Arndt, Homer

Henry Kroll, Soldotna

David Thomas, Homer Electric Association

The following people spoke in opposition to Ordinance 2022-08:

Jim Harpring, Soldotna

April Orth

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

Chesley moved to amend Ordinance 2022-08.

Amend Section 1 to read as follows, "That KPB 5.12.116 is amended as follows:

5.12.116. Economic development property exemption.

....

C. Except as provided in 5.12.116(C)(1), the exemption shall be for a designated amount at the assembly's discretion up to fifty percent (50%) of the assessed value of the property, for a designated period up to five consecutive years at the assembly's discretion.

1. Independent Power Producers exemption shall be [FULLY EXEMPTED UP TO THE AMOUNT REQUIRED BY AS 14.17.410(B)(2)] for a designated period up to fifteen consecutive years if the criteria in KPB 5.12.116(B) is met and if the applicant provides the borough assessor proof that the requirements under KPB 5.12.116(C)(1)(a) are satisfied.

i. To qualify as an Independent Power Producer under this section, an entity must

1. Own and operate a generation facility larger than two-megawatts; and

2. Sell electricity to a public utility which is regulated by the Regulatory Commission of Alaska."

Assembly Member Derkevorkian spoke in opposition to the amendment.

The motion to amend Ordinance 2022-08 carried by the following vote:

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

Cox moved to amend Ordinance 2022-08.

Amend KPB 5.12.116(D) in Section 1 to read, "D. This exemption shall not apply to taxes levied for special services in a service area that is supervised by a board under AS 29.35.460. **An exemption for property used for economic development under this section may not be combined with or in addition to any other exemption required or allowed under law.**" and

Amend KPB 5.12.116 (E) in Section 1 to read, "E. Any proposal must be approved by assembly resolution after public hearing. **The assembly resolution is a final decision on the proposal for the property used for economic development. An applicant may not apply for the exemption under this section for separate phases of the same proposal. The grant or denial of an application is a discretionary act which shall not give rise to any claim against the borough or its agents.**"

Amend KPB 5.12.116 (F) - (H) to read, "F. In order to qualify for this exemption, an applicant must file, with the borough assessor, a written application for the exemption no later than January [15] **31** of [EACH] **the** assessment year for which the exemption is sought. The application shall be on a form prescribed by the

borough assessor, and shall include all information [DETERMINED TO BE NECESSARY] **required** by the assessor to determine eligibility of the property for the exemption. **If the assessor determines that the application is complete and meets or exceeds the eligibility criteria, the mayor will submit a resolution to the assembly for action under KPB 5.12.116(E). If the assembly approves the resolution under KPB 5.12.116(E), the approval will be subject to annual certification of eligibility under KPB 5.12.116(G).** [IF THE APPLICANT FAILS OR REFUSES TO PROVIDE INFORMATION REQUIRED OR REQUESTED BY THE ASSESSOR, WITHIN THE TIME PERIOD SET BY THE ASSESSOR, THE EXEMPTION SHALL BE DENIED. THE ASSESSOR MAY MAKE AN INDEPENDENT INVESTIGATION OF THE APPLICATION OR PROPERTY IN MAKING A DETERMINATION UNDER THIS SECTION. THE ASSESSOR SHALL NOTIFY THE APPLICANT, IN WRITING, OF THE ASSESSOR'S DETERMINATION ON THE APPLICATION FOR EXEMPTION.]

G. The applicant shall certify annually by January 31 to the assessor or designee that ownership of assets subject of the tax relief and the factors establishing qualification for the tax relief under this section upon which approval was granted remain in existence and that the property remains eligible for tax relief pursuant to this section. All books and records of the owner are subject to inspection by the assessor for a period of three years after the annual certification is made. If the subject property is determined to be wholly or partially ineligible, the tax relief granted shall terminate to the extent of the deficiency. The nature and extent of any deficiency in the taxpayer's eligibility for the tax incentive or relief or the conditions under which such was granted will be reported to the assembly together with a statement of the impact of the tax incentive and deficiencies on the borough. A documentation deficiency under this subsection is cause for the assembly by resolution terminating or modifying an exemption previously approved under this section. An approved exemption may transfer with a change in ownership or a prospective change in ownership upon assembly approval by resolution.

H. An applicant delinquent in the registration for, filing of a return for, or payment of, any borough or city property or sales tax, or borough special assessment, may not be granted an exemption under this section."

Assembly Member Bjorkman spoke in support of the amendment.

The motion to amend Ordinance 2022-08 carried by the following vote:

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

Chesley moved to postpone Ordinance 2022-08 to May 17, 2022.

The motion to postpone Ordinance 2022-08 to May 17, 2022 carried by the following vote:

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

UNFINISHED BUSINESS

1. Postponed Items

2022-07

An Ordinance Adopting the 2022 Kenai Peninsula Borough Assembly and Board of Education Apportionment Plans and Submitting the Apportionment Plans to the Voters (Johnson, Elam)

[Clerk's Note: The motion to enact was on the floor from the April 19, 2022 meeting.]

[Clerk's Note: The Derkevorkian amendment was on the floor from the April 19, 2022 meeting.]

Cox moved to amend the Derkevorkian amendment.

Add a new paragraph at the end of Section 2 to read, "**Plan 2 would add two elected members to borough assembly and two elected members to the board of education. The cost to add two elected members to the borough assembly will add an approximate range of \$13,000 to \$72,000, depending on whether health care and all other benefits are exercised, in total costs to the Borough's annual budget. The cost to add two elected members to the board of education will add an approximate range of \$7,750 to \$59,960, depending on whether health care benefits are exercised, in total costs to the School District's annual budget.**"

The motion to amend the Derkevorkian amendment carried by the following vote:

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

The motion to amend Ordinance 2022-07 as amended carried by the following vote:

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

Cox moved to amend Ordinance 2022-07.

Add the word "and" after the seventh Whereas clause, and

Add an eighth Whereas clause to read, "**following the October 2022 election, a committee will be tasked with recommending to the assembly district boundary lines, for approval by ordinance, that conforms with Borough voters' decision on the question of whether the Kenai Peninsula Borough Assembly and School Board should be nine or eleven single member districts;**" and

Insert a new Section 4 to read, "**That no conceptual district maps for a nine or**

eleven district Kenai Peninsula Borough Assembly and School Board be included in the 2022 Kenai Peninsula Borough voter's pamphlet." and

Renumber the current Section 4 as Section 5 and amend to read, "That Section 2 **and Section 4** of this ordinance shall be effective immediately upon its enactment. Section 1 and 3 of this ordinance shall become effective upon the date the October 4, 2022 election is certified by the borough assembly."

Assembly Member Elam spoke in opposition to the amendment.

The motion to amend Ordinance 2022-07 failed by the following vote:

Yes: 3 - Bjorkman, Cox, and Tupper

No: 6 - Hibbert, Johnson, Derkevorkian, Elam, Chesley, and Ecklund

The motion to enact Ordinance 2022-07 as amended carried by the following vote:

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

2. Notice to Reconsider

[2022-027](#)

A Resolution Changing the Special Assistant to the Mayor from a Part-Time Position to a Full-Time Position and Removing the Position's Designation as Chief of Emergency Services (Mayor)

[Clerk's Note: Assembly Member Derkevorkian gave notice of reconsideration of Resolution 2022-027 at the 04/19/22 meeting.]

Derkevorkian moved to reconsider Resolution 2022-027.

Assembly Member Bjorkman spoke in opposition to reconsider Resolution 2022-027.

The motion to reconsider Resolution 2022-027 carried by the following vote:

Yes: 5 - Hibbert, Johnson, Derkevorkian, Elam, and Chesley

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

Assembly Members Derkevorkian, Hibbert and Elam spoke in support of Resolution 2022-027.

Assembly Members Cox and Bjorkman spoke in opposition to Resolution 2022-027.

The motion to adopt Resolution 2022-027 carried by the following vote:

Yes: 5 - Hibbert, Johnson, Derkevorkian, Elam, and Chesley

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

NEW BUSINESS

Ordinances for Introduction

[2021-19-50](#) An Ordinance Accepting and Appropriating the Opioid Settlement Funds and Establishing the Opioid Settlement Fund Grant Program (Mayor) (Hearing on 08/09/22)

Tupper moved to Introduce Ordinance 2021-19-50 and set for public hearing on August 9, 2022.

The motion to introduce Ordinance 2021-19-50 and set for public hearing on August 9, 2022 carried by the following vote:

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

MAYOR'S REPORT

Mayor's Report Cover Memo

1. Assembly Requests/Responses
2. Agreements and Contracts
 - a. [KPB-4146](#) Authorization to Award a Contract for ITB22-035 Grounds Maintenance Lawn Care – Central Area 1 to Steam on Wheels, LLC, Soldotna, AK
 - b. [KPB-4147](#) Authorization to Award a Contract for ITB22-036 Grounds Maintenance Lawn Care – North Area 2 to Get Plowed Sno-Removal, Soldotna, AK
 - c. [KPB-4148](#) Authorization to Award a Contract for ITB22-037 Grounds Maintenance Lawn Care – Seward/Moose Pass Area 3 to Steam on Wheels, LLC, Soldotna, AK
 - d. [KPB-4149](#) Authorization to Award a Contract for ITB22-038 Grounds Maintenance Lawn Care – Homer Area 4 to Overdorf Landscaping
 - e. [KPB-4150](#) Authorization to Award a Contract for ITB22-047 Homer Transfer Facility Hauling Term Contract to Alaska Waste Kenai Peninsula, LLC, Soldotna, AK
3. Other
 - a. [KPB-4151](#) Tax Adjustment Request Approval

- b. [KPB-4152](#) Budget Revisions – March 2022
- c. [KPB-4153](#) Revenue-Expenditure Report – March 2022
- d. [KPB-4154](#) Litigation Status Report – Quarter Ending 03/31/22

PUBLIC COMMENTS AND PUBLIC PRESENTATIONS

President Johnson called for public comments.

Clayton Holland, Kenai Peninsula Borough School District Superintendent thanked the Assembly for adopting Resolution 2022-028.

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

ASSEMBLY COMMENTS

Assembly Member Elam thanked everyone for their participation. In honor of National Teacher's Week, Mr. Elam thanked the teachers for all their hard work.

Assembly Member Cox stated he appreciated our borough teachers and thanked them for all their hard work. He congratulated his daughter for participating in the State track meet. He also stated that even though Soldotna lost their soccer game to Kenai, we still had music in the park.

Assembly Member Tupper thanked everyone for their participation and the borough staff for their hard work.

Assembly Member Bjorkman thanked everyone for their participation. He echoed the Mayor's comments regarding the borough's capital priorities. Mr. Bjorkman stated he reached out to our legislative delegates to encourage them to fund the borough capital priority needs.

Assembly Member Chesley invited everyone to attend the Shorebird Festival in Homer on May 4 - 8, 2022. He thanked everyone for attending the meeting and those who provided public testimony.

Assembly Member Ecklund thanked the Mayor and administration staff, along with the Assembly, for all the work they do. She stated there were two House Bills 272 and 220 that could help with the employment needs of the school district and government.

Assembly Vice President Hibbert thanked President Johnson and the Assembly for

their great work. He also thanked Superintendent Holland for the ongoing working relationship that was developing between the school district and the borough. Mr. Hibbert wished everyone a great night.

President Johnson stated that this was homecoming week as Mr. Derkevorkian was back from Valdez, Mr. Elam was back from Jerusalem, Mayor Pierce was back from Mexico, Ms. Eklund was back from Hawaii and Ms. Blankenship was back from Hawaii. He stated he was thankful that they all made it back safely.

INFORMATIONAL MATERIALS AND REPORTS

ASSEMBLY MEETING AND HEARING ANNOUNCEMENTS

1. May 16, 2022 9:00 AM Budget Work Session #3
Betty J. Glick Assembly Chambers
Borough Administration Building
Remote participation available through Zoom
Meeting ID: 884 7373 9641 Passcode: 671108
2. May 17, 2022 9:00 AM Budget Work Session #4
Betty J. Glick Assembly Chambers
Borough Administration Building
Remote participation available through Zoom
Meeting ID: 884 7373 9641 Passcode: 671108
3. May 17, 2022 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 10:24 p.m.

I certify the above represents accurate minutes of the Kenai Peninsula Borough Assembly meeting of May 3, 2022.

Johni Blankenship, MMC, Borough Clerk

Approved by the Assembly: _____