

Kenai Peninsula Borough
Planning Department

MEMORANDUM

TO: Kelly Cooper, Assembly President
Kenai Peninsula Borough Assembly Members

THRU: Charlie Pierce, Borough Mayor *CP*

FROM: Marcus A. Mueller, Acting Planning Director *MAM*

DATE: September 30, 2020

RE: Ordinance 2020-41: An ordinance authorizing five communication site lease agreements at certain locations with SPITWSPOTS, Inc.

The Kenai Peninsula Borough Planning Commission reviewed the subject ordinance during their regularly scheduled September 28, 2020 meeting.

A motion passed by unanimous vote (10 Yes, 0 No) to recommend the adoption of Ordinance 2020-41.

In the ordinance, please amend the last WHEREAS statement:

WHEREAS, The Kenai Peninsula Borough Planning Commission at its regularly scheduled meeting of September 28, 2020 recommended approval by unanimous vote.

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

END OF STAFF REPORT

Chair Martin opened the meeting for public comment.

Hearing no one wishing to comment Chair Martin closed public comment and discussion was opened amount the commission.

MOTION: Commissioner Morgan motioned, seconded by Commissioner Ecklund to postpone action on this item until the October 12, 2020 Planning Commission meeting.

MOTION PASSED: Seeing and hearing no discussion or objection, the motion passed by unanimous consent.

Yes	10	No	0	Absent	0
Yes	Bentz, Brantley, Carluccio, Ecklund, Fikes, Gillham, Martin, Morgan, Ruffner, Venuti				
No	None				
Absent	None				

AGENDA ITEM E3.

NEW BUSINESS

Ordinance 2020:41: An ordinance authorizing fire communications site lease agreement at certain locations with SPITwSPOTS, Inc.

Staff report given by Marcus Mueller

SPITwSPOTS, Inc. is a peninsula based commercial wireless communications provider focusing services on high-speed internet. SPITwSPOTS has requested to enter into leases for new communication tower sites on certain borough line in Nikolaevsk, Niniichik, Cohoe, Bear Creek and the Tebughna School in Tyonek.

SPITwSPOTS was awarded a Coronavirus Aid, Relief, & Economic Security Act grant to make rural communication improvements. SPITwSPOTS infrastructure project are on an accelerated construction timetable to meet the grant requirements.

The communication site leases have been negotiated using standard practices. Two of the locations were acquired and operated by service areas. The two service areas have been consulting the in the agreement process and the benefits of the respective leases would go to the service areas.

Mr. Mueller brought to the attention of the commission the assembly memo regarding an amendment to Ordinance 2020-41 removing the Tyonek site. Following a title search, it was revealed that the borough does not possess clear title to the Tyonek parcel so that site was pulled.

END OF STAFF REPORT

Chair Martin opened the meeting for public comment.

Hearing no one wishing to comment Chair Martin closed public comment and discussion was opened amount the commission.

MOTION: Commissioner Venuti motioned, seconded by Commissioner Gillham to forward to the Assembly a recommendation to adopt the amended Ordinance 2020-41.

Commissioner Ecklund asked staff if the height of the proposed towers was known. Mr. Mueller replied that typically the towers are 100' in height. He noted there was some discussion regarding the Bear Creek tower being either a 60' or a 100' tower. The Bear Creek Service Area Board has given Fire Chief Brackin the authority to negotiate with SPITwSPOTS the specifics on the Bear Creek tower. Commissioner Ecklund then ask if any of the other sites had been discussed with advisory planning commissions (APC) or service

area boards. Mr. Mueller replied that none of the sites were within APC areas. The Nikolaevsk site is on Anchor Point Fire Service property and there have been discussions with Chief Parkinson but he did not know if the lease had gone to the service area board for review. Commissioner Ecklund asked if the minutes from the service area board meetings would be included in the information going before the Assembly. Mr. Mueller replied that the Bear Creek service area board meeting minutes will go before the Assembly and he will check on the status of the Anchor Point service area board.

Commissioner Venuti stated that best practice is to site towers on lots so that if they were to collapse they would not damage property on neighboring lots. He asked Mr. Mueller if this standard was going to be followed with these towers. Mr. Mueller replied that the tower company selected the sites and the borough reviewed the sites to ensure that the activities were compatible with site management. Mr. Mueller also stated that the only tower that was close to a property line was the Bear Creek tower and that particular site is over an acre in size. The tower company is required to carry commercial general liability insurance listing the KPB as additionally insured on all the towers. So the borough would not be liable in the unlikely event should a tower collapse.

MOTION PASSED: Hearing no further discussion or objection, the motion passed by unanimous consent.

Yes	10	No	0	Absent	0
Yes	Bentz, Brantley, Carluccio, Ecklund, Fikes, Gillham, Martin, Morgan, Ruffner, Venuti				
No	None				
Absent	None				

AGENDA ITEM E2.

NEW BUSINESS

Ordinance 2020-__: An ordinance amending Kenai Peninsula Borough Code of Ordinance including Chapter 2.40 – Planning Commission, Title 20 – Subdivisions, Chapter 21.20 – Hearing & Appeals, to correct grammatical errors, clarify and improve certain administrative procedures

Staff report given by Scott Huff

Mr. Huff stated that staff has been working on this code rewrite for several years. The last time this code was revised was back in 2014. Since that time staff has been keeping track of issue and things that needed to be address. This code rewrite attempts to address those identified issues. As a part of this rewrite staff has met with area surveyors, engineers and area cities to get their input. The area cities of Seward, Soldotna, Kenai, Homer, Seldovia and Kachemak Bay have had a chance to review on comment on this ordinance. The ordinance has also been sent to all the APCs for review and comment as well. Tonight he will take the commission through the sectional analysis. Mr. Huff then suggested that the commission open this ordinance up for public comment, and then make a motion and open discussion among the commission. Then they can work through the sectional analysis and he can take their questions and comments and he will bring this back to the commission at the next meeting with an addendum addressing two more items he would like to include as well as any additions from the commission where they can then vote on the ordinance.

Chair Martin opened the meeting for public comment.

Hearing no one wishing to comment Chair Martin closed public comment and discussion was opened amount the commission.

MOTION: Commissioner Morgan motioned, seconded by Commissioner Ecklund to recommend to the Assembly the approval of Ordinance 2020-__.

The following is a sectional analysis of the amendments to the subdivision regulation and KPB Chapter 21.20, Hearing and Appeals. Mr. Huff reviewed each section with the board.

Section 1 amends KPB 2.40.080 to clarify that the planning commission’s delegation of powers to the plat committee is done in its capacity as the platting board, to change the time to file a request for review from ten days to fifteen days, and to establish that any person or agency sent a notice of decision may request