

Kenai Peninsula Borough

*144 North Binkley Street
Soldotna, AK 99669*



Meeting Agenda

Tuesday, June 20, 2023

1:45 PM

Meeting ID: 884 7373 9641 Passcode: 671108

Betty J. Glick Assembly Chambers

Policies and Procedures Committee

Lane Chesley, Chair

Mike Tupper, Vice Chair

Bill Elam, Member

ITEMS NOT APPEARING ON THE REGULAR MEETING AGENDA

1. Executive session regarding a confidential personnel matter pursuant to AS 44.62.310(c)(2) consideration of subjects that tend to prejudice the reputation and character of any person, provided the person may request a public discussion. (30 minutes)

PUBLIC HEARINGS ON ORDINANCES

5. [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)

Attachments: [Ordinance 2023-12](#)
[Memo](#)

6. [2023-13](#) An Ordinance Issuing an Order of Condemnation and Providing an Exception to KPB 21.16.010 to Allow for Expedited Removal of a Hazardous and Dangerous Building (Mayor) (Hearing on 06/20/23)

Attachments: [Ordinance 2023-13](#)
[Memo](#)

UNFINISHED BUSINESS**NEW BUSINESS**

Resolutions

- *a. [2023-046](#) A Resolution Adopting the Map for the Planning Commissions' At-Large District Seat Boundaries in Accordance with Substitute Ordinance 2023-11 (Cox)

Attachments: [Resolution 2023-046](#)
[Memo](#)
[Map](#)
[Reference Copy Ordinance 2023-11 Substitute](#)

2. Ordinances for Introduction

Ordinances for Introduction and referred to the Policies and Procedures Committee

- *d. [2023-15](#) An Ordinance Amending Borough Code Title 4, Elections, Regarding Declared Write-In Candidates, Canvass of Election Returns, Public Notice, and Certification of Election Results (Mayor, Johnson) (Hearing on 08/01/23)

Attachments: [Ordinance 2023-15](#)
[Memo](#)

MAYOR'S REPORT

Mayor's Report Cover Memo

[KPB-5296](#) Mayor's Report To The Assembly

Attachments: [Mayor's Report to the Assembly](#)

1. Assembly Requests/Responses- None.
2. Agreements and Contracts
 - a. [KPB-5297](#) Authorization to Award a Contract for ITB23-048 West Homer Elementary Siding & Windows
Attachments: [Authorization to Award a Contract for ITB23-048 West Homer Elementary](#)
 - b. [KPB-5298](#) Authorization to Award a Contract for RFP23-006 Soldotna High School Professional Design Services
Attachments: [Authorization for Contract RFP23-006 Soldotna High School](#)
 - c. [KPB-5299](#) Authorization to Award a Contract for RFP23-017 Kenai Central High School Concession Stand/Restroom
Attachments: [Authorization to Award RFP23-017 Kenai Central High School](#)
3. Other
 - a. [KPB-5300](#) Certification of the 2023 Main Roll Assessment
Attachments: [Certification of the 2023 Main Roll Assessment](#)
 - b. [KPB-5301](#) Budget Revisions - May 2023
Attachments: [Budget Revisions](#)
 - c. [KPB-5302](#) Revenue-Expenditure Report - May 2023
Attachments: [Revenue - Expenditure Report](#)

Introduced by:	Mayor
Date:	05/16/23
Hearing:	06/20/23
Action:	
Vote:	

**KENAI PENINSULA BOROUGH
ORDINANCE 2023-12**

**AN ORDINANCE AMENDING BOROUGH CODE RELATING TO BONDING, EQUAL
OPPORTUNITY EMPLOYMENT, PROTECTION AGAINST CERTAIN CONDUCT,
LIABILITY FOR CONDUCT, AND INDEMNIFICATION**

WHEREAS, recent events have revealed a need to update and consolidate code provisions concerning surety bonds, defense and indemnification, protections from certain conduct, and liability for certain conduct. ; and

WHEREAS, the Borough is an equal opportunity employer; and

WHEREAS, Borough code relating to surety bonds is amended to provide greater flexibility to secure bonds that are appropriated and enforceable according to the terms of the bond;

WHEREAS, surety bonds will obligate the faithful performance of an elected official's or employee's official duties;

WHEREAS, this ordinance includes a new section of code, similar to a provision in Alaska Statutes, providing protection to employees from certain conduct; and

WHEREAS, Borough or school district officials or employees who act outside the course or scope of their official duties and powers, or intentionally commit illegal acts, may be subject to personal liability; and

WHEREAS, the changes, deletions, or additions to Borough Code make it clear that the Borough will have a duty to defend, indemnify, and hold harmless officials or employees acting within the course or scope of their official duties and powers;

NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

SECTION 1. That KPB 2.34.120 is hereby repealed.

[2.34.120. LIABILITIES FOR WHICH EMPLOYEE SHALL BE INDEMNIFIED.

INDEMNIFICATION RIGHTS OF KENAI PENINSULA BOROUGH SCHOOL DISTRICT EMPLOYEES SHALL BE IN ACCORDANCE WITH SECTION 14.12.115 OF

ALASKA STATUTES AND RESTRICTIVE LANGUAGE, IF ANY, IN THIS SECTION 2.34.120 SHALL NOT BE APPLICABLE.

KENAI PENINSULA BOROUGH AND SCHOOL DISTRICT EMPLOYEES SHALL BE ENTITLED TO INDEMNITY UNDER THIS CHAPTER AND THE KENAI PENINSULA BOROUGH AND SCHOOL DISTRICT SHALL INDEMNIFY THE EMPLOYEE;

- A. SUBJECT TO SECTION 2.34.130, THE KENAI PENINSULA BOROUGH AND SCHOOL DISTRICT SHALL INDEMNIFY AN EMPLOYEE AGAINST LOSSES AND/OR CLAIMS ARISING OUT OF AND IN THE SCOPE AND COURSE OF THEIR EMPLOYMENT BY THE KENAI PENINSULA BOROUGH AND SCHOOL DISTRICT WHERE THE EMPLOYEE HAS DEFENDED THE LOSS AND/OR CLAIM SUCCESSFULLY.
- B. ANY REASONABLE AMOUNTS, SUBSTANTIATED BY APPROPRIATE DOCUMENTATION, THAT THE EMPLOYEE PAYS ON BEHALF OF THE KENAI PENINSULA BOROUGH AND SCHOOL DISTRICT TO SETTLE LOSSES AND/OR CLAIMS, SATISFY JUDGEMENTS AND/OR COURT ORDERS.
- C. REASONABLE COSTS AND ATTORNEY FEES INCURRED BY THE EMPLOYEE IN DEFENDING LOSSES AND/OR CLAIMS ON BEHALF OF THE KENAI PENINSULA BOROUGH AND SCHOOL DISTRICT WHICH ARE NOT PAID BY A BENEFIT PROGRAM TO WHICH THE KENAI PENINSULA BOROUGH AND SCHOOL DISTRICT CONTRIBUTE.]

SECTION 2. That KPB 2.34.130 is hereby repealed.

[2.34.130. LIABILITIES FOR WHICH EMPLOYEE MAY BE INDEMNIFIED.

INDEMNIFICATION RIGHTS OF KENAI PENINSULA BOROUGH SCHOOL DISTRICT EMPLOYEES SHALL BE IN ACCORDANCE WITH SECTION 14.12.115 OF ALASKA STATUTES AND RESTRICTIVE LANGUAGE, IF ANY, IN THIS SECTION 2.34.130 SHALL NOT BE APPLICABLE.

KENAI PENINSULA BOROUGH AND SCHOOL DISTRICT EMPLOYEES MAY BE INDEMNIFIED AGAINST LOSSES AND/OR CLAIMS, SUBJECT TO SECTION 2.34.130, ARISING OUT OF AND IN THE SCOPE AND COURSE OF EMPLOYMENT BY THE KENAI PENINSULA BOROUGH AND SCHOOL BOARD WHERE THE EMPLOYEE DOES NOT DEFEND THE LOSS AND/OR CLAIM SUCCESSFULLY, BUT ONLY IF THERE IS AN INDEPENDENT DETERMINATION IN FAVOR OF THE EMPLOYEE ON EACH OF THE FOLLOWING ISSUES A THROUGH D.

THE INDEPENDENT DETERMINATION SHALL BE THE FINDING OF A COURT OF COMPETENT JURISDICTION IN A PROCEEDING TO WHICH THE EMPLOYEE IS A PARTY. IN THE ABSENCE OF SUCH A FINDING, THE INDEPENDENT DETERMINATION SHALL BE MADE BY INDEPENDENT LEGAL COUNSEL APPOINTED BY THE KENAI PENINSULA BOROUGH AND SCHOOL DISTRICT FOR THAT PURPOSE.

- A. THE EMPLOYEE ACTED IN A MATTER RELATED TO THEIR EMPLOYMENT IN WHICH THE KENAI PENINSULA BOROUGH AND SCHOOL DISTRICT HAD AN INTEREST.
- B. THE EMPLOYEE ACTED IN DISCHARGING A DUTY AUTHORIZED OR IMPOSED BY LAW.
- C. THE EMPLOYEE ACTED IN GOOD FAITH.
- D. IN THE CASE OF A CRIMINAL ACTION AGAINST THE EMPLOYEE, THE EMPLOYEE HAD NO REASONABLE CAUSE TO BELIEVE THEIR CONDUCT WAS UNLAWFUL.]

SECTION 3. That KPB 2.34.140 is hereby repealed.

[2.34.140. LIMITS ON EMPLOYEE'S RIGHT TO INDEMNITY.

INDEMNIFICATION RIGHTS OF KENAI PENINSULA BOROUGH SCHOOL DISTRICT EMPLOYEES SHALL BE IN ACCORDANCE WITH SECTION 14.12.115 OF ALASKA STATUTES AND RESTRICTIVE LANGUAGE, IF ANY, IN THIS SECTION 2.34.140 SHALL NOT BE APPLICABLE.

NOTWITHSTANDING SECTIONS 2.34.110 AND 2.34.120, THE KENAI PENINSULA BOROUGH AND SCHOOL DISTRICT SHALL NOT INDEMNIFY AN EMPLOYEE:

- A. FOR COSTS AND ATTORNEY FEES INCURRED IN DEFENDING A LOSS AND/OR CLAIM WHERE THE KENAI PENINSULA BOROUGH AND SCHOOL DISTRICT ATTORNEY OR KENAI PENINSULA BOROUGH AND SCHOOL DISTRICT POLICIES OF INSURANCE COULD DEFEND THE EMPLOYEE WITHOUT A CONFLICT OF INTEREST.
- B. FOR A LOSS AND/OR CLAIM FOR WHICH KENAI PENINSULA BOROUGH AND SCHOOL DISTRICT POLICIES OF INSURANCE WOULD INDEMNIFY THE EMPLOYEE WITHOUT GRANTING THE KENAI PENINSULA BOROUGH AND SCHOOL DISTRICT ANY RIGHT OF SUBROGATION AGAINST THE EMPLOYEE.
- C. WHERE THE KENAI PENINSULA BOROUGH AND SCHOOL DISTRICT BRINGS THE CLAIM OR PROCEEDING AGAINST THE EMPLOYEE.
- D. FOR PUNITIVE AND/OR EXEMPLARY DAMAGES.
- E. FOR THE COST OF INDEPENDENT COUNSEL RETAINED BY THE EMPLOYEE WHEN THE KENAI PENINSULA BOROUGH AND SCHOOL DISTRICT HAVE ACCEPTED TENDER OF DEFENSE.]

SECTION 4. That KPB 2.34.150 is hereby repealed.

[2.34.150. EMPLOYEE'S RIGHT TO INDEPENDENT COUNSEL.

WHERE AN EMPLOYEE IS ENTITLED TO INDEMNITY UNDER THIS CHAPTER, THE KENAI PENINSULA BOROUGH AND SCHOOL DISTRICT SHALL PROVIDE THE EMPLOYEE WITH INDEPENDENT LEGAL COUNSEL WHEN:

- A. THE EMPLOYEE REQUESTS LEGAL COUNSEL; AND
- B. THE KENAI PENINSULA BOROUGH MAYOR OR BOROUGH ATTORNEY DETERMINES;
 - 1. THERE MAY BE A CONFLICT OF INTEREST BETWEEN THE KENAI PENINSULA BOROUGH AND SCHOOL DISTRICT AND THE EMPLOYEE, OR
 - 2. THE LIABILITY OF THE EMPLOYEE INVOLVES CLAIMS OR DEFENSES NOT REASONABLY RELATED TO THE CLAIMS OR DEFENSES OF THE KENAI PENINSULA BOROUGH AND SCHOOL DISTRICT.]

SECTION 5. That KPB 2.34.160 is hereby repealed.

[2.34.160. EMPLOYEE'S DUTIES IN EVENT OF A LOSS AND/OR CLAIM.

AS SOON AS PRACTICABLE, THE EMPLOYEE IN THE EVENT OF A LOSS AND/OR CLAIM WHICH WOULD ENTITLE THE EMPLOYEE TO INDEMNITY AND/OR REIMBURSEMENT BY THE KENAI PENINSULA BOROUGH AND SCHOOL DISTRICT UNDER THIS CHAPTER, SHALL FURNISH OR CAUSE TO BE FURNISHED WRITTEN NOTICE AND/OR ORAL INFORMATION CONTAINING PARTICULARS SUFFICIENT TO IDENTIFY THE EXPOSURE OF THE KENAI PENINSULA BOROUGH AND SCHOOL DISTRICT. THE INFORMATION FURNISHED SHOULD INCLUDE:

- A. ALL REASONABLE OBTAINABLE INFORMATION WITH RESPECT TO THE TIME, PLACE AND CIRCUMSTANCES THEREOF, THE NAMES AND ADDRESSES OF PERSONS SUFFERING DAMAGE TO PROPERTY AND/OR PERSONAL INJURY, AND THE NAMES AND ADDRESSES OF AVAILABLE WITNESSES.
- B. IF CLAIM IS MADE OR NOTICE OF SUIT IS SERVED UPON THE EMPLOYEE, THE EMPLOYEE SHALL IMMEDIATELY NOTIFY AND FORWARD TO THE KENAI PENINSULA BOROUGH ATTORNEY AND/OR RISK MANAGER EVERY DEMAND, NOTICE, SUMMONS OR OTHER PROCESS RECEIVED BY OR SERVED UPON HIM/HER OR HIS/HER REPRESENTATIVE.
- C. THE EMPLOYEE SHALL UPON REQUEST COOPERATE WITH AND ASSIST THE KENAI PENINSULA BOROUGH AND SCHOOL DISTRICT IN MAKING SETTLEMENTS, IN THE CONDUCT OF LITIGATION AND ENFORCEMENT OF ANY RIGHT OF CONTRIBUTION OR INDEMNITY AGAINST ANY PERSON AND/OR ORGANIZATION WHO MAY BE LIABLE TO THE KENAI PENINSULA BOROUGH AND SCHOOL DISTRICT AND/OR THE EMPLOYEE BECAUSE OF DAMAGE TO PROPERTY AND/OR PERSONAL INJURY. THE EMPLOYEE SHALL AT THE REQUEST OF THE KENAI PENINSULA BOROUGH AND SCHOOL DISTRICT, ATTEND ALL HEARINGS AND TRIALS AND ASSIST IN SECURING AND GIVING EVIDENCE AND OBTAINING THE

ATTENDANCE OF WITNESSES. THE EMPLOYEE SHALL NOT, EXCEPT AT THEIR OWN COST, VOLUNTARILY MAKE ANY PAYMENT, ASSUME ANY LIABILITY OR OBLIGATION OR INCUR ANY EXPENSE OTHER THAN FOR THE FIRST AID TO OTHERS AT THE TIME OF AN ACCIDENT.]

SECTION 6. That the Kenai Peninsula Borough Code of Ordinances is hereby amended adding a new section to be numbered KPB 2.34.135 which shall read as follows:

2.34.135 Surety Bonds.

- A. Subject to annual approval by the assembly, the risk manager, in consultation with the risk management committee, will obtain appropriate bonds for the mayor and other borough or school district officers or employees for the faithful performance of their official duties.
- B. Each bond is considered in force and obligatory upon the principal and sureties for the faithful performance and discharge of all duties required of the officer or employee during the time the officer or employee discharges the duties of the office or appointment.
- C. The surety company must be authorized to operate within the State of Alaska. Each bond is payable to the borough. A bond executed by a borough officer or employee is in force and obligatory upon the principal and sureties to and for the borough. Premiums on bonds are paid by the borough.

SECTION 7. That KPB 2.34.170 is hereby repealed.

[2.34.170. PUBLIC OFFICIAL'S AND EMPLOYEE DISHONESTY BONDS.

THE RISK MANAGER SHALL BE RESPONSIBLE FOR MAINTAINING APPROPRIATE BONDS FOR THE KENAI PENINSULA BOROUGH FINANCE DIRECTOR AND OTHER DESIGNATED CHECK SIGNORS, FOR THE BENEFIT OF THE KENAI PENINSULA BOROUGH, IN THE AMOUNT OF ONE HUNDRED THOUSAND DOLLARS (\$100,000.00) FOR EACH OF THE BONDS REQUIRED.]

SECTION 8. That KPB 3.04.040 is hereby repealed and replaced as follows:

3.04.040. Equal opportunity employer.

- A. It is the policy of the borough to provide fair and equal employment opportunities for all persons from all segments of the population without discrimination as to

race, color, religion, creed, national origin, sex, age, marital status, veteran status, disability, or citizenship status of a person otherwise authorized under federal law to work in the United States. Applicable borough policies and practices implementing this section must be consistent with all federal and State laws and regulations.

- B. The mayor, human resources director, and all managerial and supervisory staff are responsible for implementing and supporting the borough's commitment to equal opportunity employment.

[3.04.040. NONDISCRIMINATION.

QUALIFICATION FOR EMPLOYMENT AND PROMOTION SHALL BE FREE OF CONSIDERATION AS TO RACE, COLOR, CREED, ETHNIC BACKGROUND, SEX OR RELIGIOUS AFFILIATIONS.]

SECTION 9. That the Kenai Peninsula Borough Code of Ordinances is hereby amended adding a new section to be numbered KPB 3.04.225 which shall read as follows:

3.04.225. Borough and School District employees protected against certain conduct.

- A. A department, service area, elected or appointed official, or person employed by the borough or school district, or a borough contractor, or member of the public contacting the borough or school district on official business, may not directly or indirectly
1. require any employee of the borough or school district to make any report or participate in any way in any activity or undertaking unless the activity or undertaking is related to the performance of official duties;
 2. except as directly related to the performance of the employee's official duties, require or coerce any employee of the borough or school district to submit to any interrogation or examination or psychological test which is designed to elicit information concerning:
 - a. the employee's personal relationship with any person connected by blood or marriage;
 - b. the employee's religious beliefs or practices;
 - c. sexual matters;
 - d. the employee's political affiliation or philosophy;
 3. coerce any employee of the borough or school district to invest or contribute

earnings in any manner or for any purpose;

4. Unlawfully harass, threaten, retaliate, or initiate unwanted physical contact with a borough or school district employee; or

5. restrict or attempt to restrict after-working-hour statements, pronouncements or other activities, not otherwise prohibited by law or personnel rule, of any employee of the borough or school district, if the employee does not purport to speak or act in an official capacity.

B. The purpose of this section is to supplement existing personnel rules and policies, and contract language, and does not supersede or replace any such rules, policies or contract language.

C. A borough employee or school district employee who violates this section may be subject to discipline or other adverse employment action. An elected official who violates this section may be subject to: (i) a recall petition; (ii) a public censure by the school board if the violation concerns a school board member or by the assembly if the violation concerns an assembly member or the mayor; or (iii) a legal action. An individual serving on an appoint service area board, advisory planning commission, or planning commission who violates this section may be subject to removal.

D. A determination by the borough that a contractor violated this section may constitute grounds for the borough or school district, as applicable, to: (i) terminate the contract for convenience in the best interests of the borough; or (ii) require training or other remedies under the contract.

E. A member of the public or contractor who violates subsection (A)(4) while using borough services or within borough-owned facilities may be trespassed from the facility or an action may be instituted in the courts of the Third Judicial District at Kenai, Alaska.

F. The provisions of subsection (A) of this section do not diminish the authority of an authorized law enforcement agency to conduct criminal investigations of borough or school district employees suspected of being involved in criminal activity.

SECTION 10. That KPB 3.04.230 is hereby repealed and replaced as follows:

3.04.230. Legal liability—Conduct.

Except as otherwise precluded by law, an elected or appointed official, former employee, or employee of the borough or the school district may be subject to personal liability and an action or cross claim may be brought by the borough against an elected or appointed official or employee, including volunteers, who commit an intentional tort, a grossly negligent act or omission, fraud,

purports to act on behalf of the borough outside the scope of the individual's official duties or power, or conduct that a court of law or jury adjudicates liability and loss is incurred by the borough or school district as a result of a claim of unlawful discrimination or retaliatory conduct. An action filed by the borough under this section will seek relief to make the borough whole for losses incurred as a result of the conduct, act or omission.

[AN OFFICER OR EMPLOYEE OF THE BOROUGH MAY BE DENIED LEGAL SUPPORT OF THE BOROUGH IF THE CAUSE OF ACTION AGAINST THE EMPLOYEE WAS THE RESULT OF THE EMPLOYEE ACTING OUTSIDE THE SCOPE OF EMPLOYMENT, OR WORKING WITHIN THE SCOPE OF EMPLOYMENT BUT ACTING IN A GROSSLY NEGLIGENT MANNER.]

SECTION 11. That the Kenai Peninsula Borough Code of Ordinances is hereby amended adding a new section to be numbered KPB 3.04.235 which shall read as follows:

3.04.235. Defense and Indemnification

- A. Except as otherwise precluded by law, the borough will defend, indemnify and hold harmless an elected official, appointed board member or commissioner, employee or former employee, including school district personnel, against all costs, expenses, judgments, and liabilities, including attorney fees, incurred by or imposed upon that person in connection with a civil or criminal proceeding arising out of acts or omissions in the course of borough business and in performance of the person's official duties or powers. This defense and indemnification will be provided by the borough attorney or the borough attorney's designee or through such insurance policy or self-insurance or similar program as the borough may establish. The borough will have the sole right to control the defense and settlement of the claim. The borough may, in its sole discretion, and without the consent or participation of the employee, compromise or settle the claim on any terms that impose no legal or financial obligation upon the employee
- B. No obligation to indemnify, hold harmless or defend will apply to any claim against an elected or appointed official, former employee, or employee:

 - 1. Based on gross negligence, willful, malicious, dishonest, fraudulent conduct, or any conduct that results in a criminal conviction, including a guilty or no contest (nolo contendere) plea.
 - 2. Based on conduct that was not undertaken in the reasonable belief that the act or omission was in the best interest of the borough;

3. Based on allegations of sexual assault, sexual harassment, or other sexual misconduct by the person requesting defense or indemnification and the allegations are found to be credible or substantiated following a confidential internal investigation;
 4. Acting outside the scope of employment or outside the scope of the person's official duties or powers;
 5. Brought by or on behalf of the Borough;
 4. For any fine resulting from a traffic citation unless the citation is for malfunctioning equipment or lack of proper registration on a borough-owned vehicle; or
 6. For punitive or exemplary damages.
- C. Nothing in this section may be construed as waiving the defense of governmental immunity available to borough or school district, or its assembly members, officers, appointed or elected board members, employees or authorized volunteer in any action.
- D. An individual who requests defense and indemnification under this section must make such a request on a form provided by the risk manager within 15 days of the individual learning of the claim. The risk manager, in consultation with the risk management committee, will determine whether or not the borough is obligated to indemnify, hold harmless or defend the employee pursuant to this section. A written decision will be provided to the requesting individual. The risk manager may assume the defense under a reservation of rights. The borough's decision to indemnify, hold harmless, or defend a claim does not require the borough to continue to indemnify, hold harmless or defend the claim, nor does it require that the borough indemnify or hold harmless an employee against any resulting judgment, fine or amount paid in settlement. An assumption by the borough of the indemnification or defense of a claim shall not be construed as a waiver by the borough of any right, condition or limitation of this section nor will it preclude the borough from taking any disciplinary or other employment action against the employee.
- E. The borough will have no duty to defend, indemnify or hold harmless if the elected official, appointed service area board of director or commissioner, former

employee, or employee: (1) fails to cooperate in the defense and settlement of a claim; (2) fails to give the Risk Manager written notice of any incident potentially giving rise to a claim against the employee, including all information concerning the incident known to the employee, within 15 days of the employee learning of the claim; (3) fails to provide or authorize the borough to obtain records and information reasonably relevant to a proper defense of the claim; or (4) hires an attorney without complying with this section.

F. To the extent the Borough makes payments for defense or indemnity of the employee, the elected official, appointed service area board of director or commissioner, former employee, or employee must transfer to the Borough the individual’s rights of recovery against others related to the claim or loss including the right to recover attorney fees and other costs incurred in the defense of the claim.

SECTION 12. That this ordinance shall be effective immediately upon enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS * DAY OF * 2023.

Brent Johnson, Assembly President

ATTEST:

Michele Turner, CMC, Acting Borough Clerk

Yes:

No:

Absent:

Kenai Peninsula Borough

Legal Department

MEMORANDUM

TO: Brent Johnson, Assembly President
Members, Kenai Peninsula Borough Assembly

THRU: Peter A. Micciche, Mayor *PAM*

FROM: Sean Kelley, Borough Attorney *SK*
Sovala Kisenia, Risk Manager *SK*

DATE: May 4, 2023

RE: Ordinance 2023-12, Amending Borough Code Relating to Bonding, Equal Opportunity Employment, Protection Against Certain Conduct, Liability for Conduct, and Indemnification (Mayor)

This Ordinance amends Borough Code as follows:

Section 1 through Section 5 of the Ordinance repeals five sections of KPB Chapter 2.34 relating to defense and indemnification.

Intent: The repealed language is reworked into a single defense and indemnification section, as set forth in Section 11 of the Ordinance, and moved under KPB Chapter 3.04 relating to personnel. The coverage of Borough and School District employees remains the same; the Borough will defend, indemnify, and hold harmless acts or omissions that are within a public official or employee's scope or course of duties. Acts that are not within an individual's course or scope of duties will not be indemnified.

Section 6 of the Ordinance adds a new section of Borough Code relating to Surety Bonds.

Intent: These changes will require bonds for the faithful performance of the principal's (the elected official or employee) official duties. The list of bonded employees will be subject to annual approval by the Assembly.

Section 7 of the Ordinance repeals KPB 2.34.170 relating to Public Official's and employee dishonest bonds.

Intent: A claim against the Public Official's Bond for Mayor Pierce was denied by the surety due to their determination that Borough Code only required a fidelity bond and that was the intent of the bond that was issued. While the Borough disagrees with this determination and intends to appeal the decision, the changes to Borough Code relating to bonding are meant to address this conflict and will plainly state that bonds for the mayor and other elected officials or employees as designated by the Assembly will obligate the faithful performance of official duties.

Section 8 of the Ordinance repeals and replaces KPB 3.04.040 relating to Equal Opportunity employment and nondiscrimination.

Intent: This section repeals the current code section title "Nondiscrimination" and

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RE: O2023-12

replaces it with an updated equal opportunity employer section to better mirror requirements under federal law. The section codifies current employment practices and will ensure continued compliance with requirements related to federal grant funds.

Section 9 of the Ordinance adds a new section of Borough Code, at KPB 3.04.225, relating to protection against certain conduct.

Intent: This section is derived from AS 39.26.010 relating to “State employees protection against certain conduct”. This section differs slightly from the State statute in that it includes protection from unlawful harassment, threatening or retaliatory behavior or initiating unwanted physical contact. It also includes protection from such behavior from members of the public or a Borough contractor while conducting business on borough contracts, or within or using Borough facilities.

Section 10 of the Ordinance repeals and replaces KPB 3.04.230 relating to “Legal liability—Conduct”

Intent: Current code only provides that an employee acting “outside of the scope of employment, or working within the scope of employment but acting in a grossly negligent manner” may be denied legal support. The new code language addresses when an elected or appointed official, former or current employee’s conduct may subject the individual to personal liability. An individual who acts outside the scope of employment, commits an intentional tort, or is grossly negligent may be held personally liable for such conduct.

Section 11 of the Ordinance adds a new section of Borough Code, KPB 3.04.235, relating to defense and indemnification of elected or appointed officials and former or current employees.

Intent: Generally, acts or omissions within the course or scope of duties are covered and acts or omissions outside the course or scope of duties may not be covered. The section enumerates six situations where the Borough would not have a duty to defend, indemnify or hold harmless. This section provides a clear criterion for requesting indemnification and a decision making process. This section provides that the Borough has the sole authority to handle and settle a claim where the borough is indemnifying an official or employee and that individual will incur no personal liability. This section also clarifies that a duty to defend or indemnify does not waive governmental immunity defenses and does not waive potential subrogation claims. It is also noted that State statute provides a specific indemnification section for school district personnel. This section should not conflict with State statute but to the extent it does, State law will control.

Prior to introduction, the Borough Administration met with School District Administration to discuss this Ordinance and provided the Ordinance to the heads of Borough departments and service areas for input.

Your consideration is appreciated.

Introduced by:	Mayor
Date:	06/06/23
Hearing:	06/20/23
Action:	
Vote:	

**KENAI PENINSULA BOROUGH
ORDINANCE 2023-13**

**AN ORDINANCE ISSUING AN ORDER OF CONDEMNATION AND PROVIDING AN
EXCEPTION TO KPB 21.16.010 TO ALLOW FOR EXPEDITED REMOVAL OF A
HAZARDOUS AND DANGEROUS BUILDING**

WHEREAS, Zipmart, owned and operated by Whittier Properties, Inc., was a vehicle fueling station business that began operations in 1985; and

WHEREAS, according to a report published by the State of Alaska’s contractor that was engaged to monitor and perform remediation work at the Zipmart site, soil and groundwater contamination was first discovered in 1995; in 2001, an assessment found 13 inches of fuel in groundwater monitoring wells at the Zipmart property due to a break in the gasoline tank fill pipe which caused an estimated 53,000 gallons of fuel to be released to the environment; and

WHEREAS, in early 2002, the State of Alaska’s Department of Environmental Conservation (ADEC) assumed management of cleanup activities related to the Zipmart site, soil, and groundwater contamination; and

WHEREAS, the recently collapsed Zipmart building is a hazard to public health, safety, and general welfare; and

WHEREAS, the collapsed Zipmart building is a danger and attractive nuisance to the Sterling area youth and local residents; and

WHEREAS, this ordinance provides for an exception to code to waive the requirement to wait 30 days between the Planning Commission’s show cause hearing and the Assembly’s order of removal so that the Borough Administration may immediately proceed with removal of the hazardous building; and

WHEREAS, as further justification for providing an exception to Borough Code to allow for immediate removal, the Borough will not charge the cost of the removal to the property which is already in significant arrears to the Borough for unpaid property taxes and to the State for costs of site cleanup and remediation; and

WHEREAS, at its regularly scheduled meeting on June 8, 2023, the Planning Commission issued an order for the property owner to show cause why the Zipmart building should not be condemned and set the show cause hearing for June 12, 2023;

WHEREAS, at its regularly scheduled meeting on June 12, 2023, the Planning Commission held a show cause hearing and following the hearing the Planning Commission _____ a resolution recommending the Assembly issue an order of condemnation; and

WHEREAS, it is in the best interests of the Borough for the Assembly to issue an order of condemnation and order the removal of the hazardous Zipmart building in order to protect citizens against threats to public health, safety, and general welfare;

NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

SECTION 1. That the Assembly issues this order of condemnation and declares the building, known as the Zipmart building located at 38525 Swanson River Road, Sterling, Alaska, KPB Parcel Identification No. 06349049, to be a health hazard or public nuisance. The Assembly, in consideration of the Planning Commission's recommendation, further orders that the Zipmart building be demolished and removed.

SECTION 2. That, notwithstanding KPB 21.16.010, the Assembly finds it is in the best interest of public safety, health, and general welfare to provide an exception to the requirement to wait 30 days between the hearing before the Planning Commission and the Borough removes or demolishes the collapsed, hazardous building based on the following findings:

1. The Zipmart building is a public health hazard and attractive nuisance that must be removed as soon as possible.
2. The Zipmart owners are to willing or able to take action to address the structure hazard and no longer have site control at the property and have not responded to any Borough notices regarding the condemnation of the building.
3. Upon enactment of this ordinance, the Borough may immediately proceed with demolition and removal of the building on the condition that the charges of the removal will not be charged back to the property.
4. By not charging the removal costs to the property, it is appropriate to provide for an exception to allow the Borough to remove the hazard. The building is not salvageable.

SECTION 3. That Whitter Properties, LLC was first provided notice, by certified mail, of the condemnation proceedings on May 10, 2023.

SECTION 4. That this ordinance shall be effective immediately upon enactment.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS * DAY
OF * 2023.**

Brent Johnson, Assembly President

ATTEST:

Michele Turner, CMC, Acting Borough Clerk

Yes:

No:

Absent:

Kenai Peninsula Borough Planning Department

MEMORANDUM

TO: Brent Johnson, Assembly President
Members, Kenai Peninsula Borough Assembly

THRU: Peter A. Micciche, Borough Mayor *PAM*

FROM: Robert Ruffner, Planning Director *SK*
Sean Kelley, Borough Attorney *SK*

DATE: May 25, 2023

RE: Ordinance 2023- 13, Issuing an Order of Condemnation and Providing an Exception to KPB 21.16.010 to Allow for Expedited Removal of a Hazardous and Dangerous Building (Mayor)

Whittier Properties, Inc. owned and operated a vehicle fueling station business known as Zipmart, which began operations in 1985. The Zipmart business was located at 38525 Swanson River Road, Sterling, Alaska (KPB PIN 06349049).

According to a report published by the State of Alaska's contractor that was engaged to monitor and perform remediation work at the Zipmart site, soil and groundwater contamination was first discovered in 1995. An assessment performed in 2001 found 13 inches of fuel in groundwater monitoring wells at the Zipmart property. The release of fuel was traced to a break in the gasoline tank fill pipe that caused an estimated 53,000 gallons of fuel to be released to the environment. In early 2002, the State of Alaska's Department of Environmental Conservation (ADEC) assumed management of cleanup activities related to the Zipmart site; soil, and groundwater contamination.

The Zipmart building recently collapsed which has created a hazard to public health, safety, and general welfare. The collapsed Zipmart building is a danger and an attractive nuisance to the Sterling area youth and local residents.

This Ordinance provides for an exception to code to waive the requirement to wait 30 days between the Planning Commission show cause hearing and the Assembly's order of removal so that the Borough Administration may immediately proceed with removal of the hazardous building. As additional justification for providing an exception to Borough Code to allow for immediate removal, the Borough will not charge the cost of the removal to the property which is already in significant arrears to the Borough for unpaid property taxes and to the state for costs of site cleanup and remediation. It is in the best interests of the Borough for the Assembly to issue an order of condemnation and order the removal of the hazardous Zipmart building in order to protect citizens against threats to public health, safety, and general welfare.

Your consideration is appreciated.

Introduced by: Cox
Date: 06/20/23
Action:
Vote:

**KENAI PENINSULA BOROUGH
RESOLUTION 2023-046**

A RESOLUTION ADOPTING THE MAP FOR THE PLANNING COMMISSION'S AT-LARGE DISTRICT SEAT BOUNDARIES IN ACCORDANCE WITH SUBSTITUTE ORDINANCE 2023-11

WHEREAS, Ordinance 2023-11 (Cox, Elam, Hibbert) Substitute, enacted by the Assembly on June 6, 2023, reduced the Planning Commission membership from 14 seats to 9 seats; and

WHEREAS, per the Ordinance, four of the nine seats are city seats; and

WHEREAS, the remaining five seats are described as At-Large District Seats; and

WHEREAS, prior to enactment, Section 4 of the Ordinance was amended to provide that the map for the at-large district seats would be approved by resolution;

NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

SECTION 1. That the map accompanying this resolution is hereby adopted to show the Planning Commission's At-Large District seat boundaries.

SECTION 2. That this resolution is effective immediately upon adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 20TH DAY JUNE, 2023.

Brent Johnson, Assembly President

ATTEST:

Michele Turner, CMC, Acting Borough Clerk

Yes:

No:

Absent:

Kenai Peninsula Borough Assembly

MEMORANDUM

TO: Brent Johnson, Assembly President
Members, Kenai Peninsula Borough Assembly

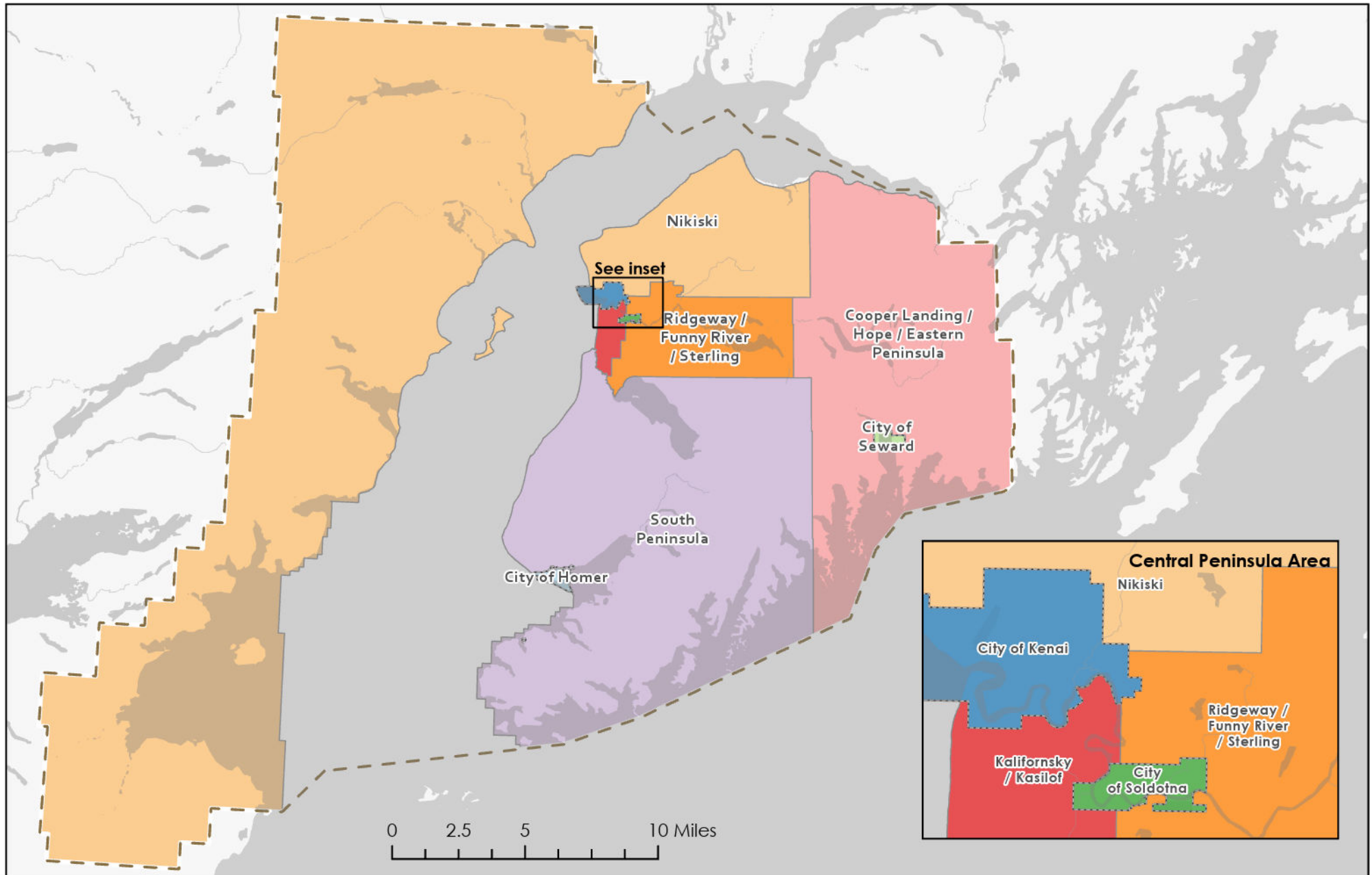
FROM: Tyson Cox, Assembly Vice President *TRC*

DATE: June 8, 2023

SUBJECT: Resolution 2023-046 Adopting the Map for the Planning Commissions' At-Large District Seat Boundaries in Accordance with Substitute Ordinance 2023-11 (Cox)

This Resolution would adopt the map for the Planning Commission's At-Large District Seats in accordance with Ordinance 2023-11 (Substitute).

Your consideration is appreciated.



Introduced by:	Cox, Elam, Hibbert
Substitute Introduced:	06/06/23
O2023-11 (Elam)	See Original for Prior History
Hearing	06/06/23
Action:	Enacted as Amended
Vote:	5 Yes, 3 No, 1 Absent

**KENAI PENINSULA BOROUGH
ORDINANCE 2023-11
(COX, ELAM, HIBBERT) SUBSTITUTE**

**AN ORDINANCE AMENDING BOROUGH CODE, KPB 2.40.015 AND KPB 2.40.030,
TO REDUCE THE NUMBER OF SEATS ON THE PLANNING COMMISSION AND
PROVIDE FOR AN ORDERLY PROCESS FOR THE SEAT REDUCTION**

- WHEREAS,** the Kenai Peninsula Borough (“Borough”) is a second class borough with a population of 58,799 as of April 1, 2020 U.S. Census totals; and
- WHEREAS,** The Alaska State Legislature amended AS 29.40.020(a) in 2022 to provide the Borough with flexibility to apportion its Planning Commission seats in a manner that the Assembly deems appropriate; and
- WHEREAS,** presently, there are fourteen members of the Borough Planning Commission, and there do not appear to be any other planning commissions in the State of Alaska with so many members; and
- WHEREAS,** presently, there are nine members on the Borough Assembly; and
- WHEREAS,** Borough code requires the Borough to compensate its Planning Commission members at the rate of \$175.00 per regular or special meeting attended except the chairperson, who will be compensated at the rate of \$200.00 per regular or special meeting; and
- WHEREAS,** Borough code requires the Borough to compensate its Planning Commission members serving on the plat committee at an additional rate of \$25.00; and
- WHEREAS** aligning the number of Planning Commission member seats to be consistent with the number of Assembly member seats will reduce the aggregate cost of compensation the Borough must pay to its Planning Commission members by approximately \$40,698.00; and
- WHEREAS,** this substitute ordinance amends code to provide for a nine member planning commission, with four city seats and five at-large seats;

NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

SECTION 1. That KPB 2.40.015 is amended to read as follows:

2.40.015. Membership—Apportionment.

In accordance with AS 29.40.020(a):

- A. The planning commission [SHALL CONSIST OF A MAXIMUM OF FOURTEEN MEMBERS] will consist of nine members. Commission membership [SHALL BE APPORTIONED SO THAT THE NUMBER OF MEMBERS FROM HOME RULE AND FIRST CLASS CITIES REFLECTS THE PROPORTION OF BOROUGH POPULATION RESIDING IN HOME RULE AND FIRST CLASS CITIES LOCATED IN THE BOROUGH. NO MORE THAN ONE MEMBER OF THE COMMISSION MAY BE FROM ANY SINGLE HOME RULE OR FIRST CLASS CITY IN THE BOROUGH UNLESS MORE ARE REQUIRED TO SATISFY THE STATUTORY APPORTIONMENT REQUIREMENT] will be apportioned in a manner that provides for four city seats and five at-large district seats.
- B. City Seats. A city must have a population of over 2,000 residents to have a designated city seat. Only a city resident may serve on a city seat.[and shall.] Notwithstanding, a resident of the city of Seldovia may serve on the Homer city seat if approved by the Homer City Council. An applicant for a city seat be selected by the mayor from a list of recommendations submitted by the council and subject to confirmation by the assembly. [THE LIST WILL CONSIST OF AT LEAST ONE APPLICANT FROM THE RESPECTIVE CITY WHOSE CITY SEAT IS VACANT OR EXPIRING. APPOINTMENTS SHALL BE SUBJECT TO CONFIRMATION BY THE ASSEMBLY.] The city seats are as follows:
1. Homer;
 2. Kenai;
 3. [Seldovia]Seward; and
 4. [Seward; and]Soldotna
 - [5. Soldotna.]
- C. At-Large District Seats. [SINGLE MEMBER DISTRICT.] There will be five at-large district seats on the planning commission that will be appointed by the mayor and confirmed by the assembly. The at-large districts will be representative of the following areas:
1. Nikiski district. This district will encompass the area within the borough north of the boundary line for the city of Kenai that includes the Nikiski community and the west side of the Cook Inlet.
 2. Ridgeway/Funny River/Sterling district. This district will encompass the area of the borough outside of the cities that includes the Ridgeway, Funny River and Sterling communities and ends at Mile Post 55 of Sterling Highway.
 3. Cooper Landing/Hope/Eastern Peninsula district. This district will encompass the area within the borough outside of the cities that includes the communities of Cooper Landing, Hope, Moose Pass, Primrose, Bear Creek and Lowell Point.

4. Kalifornsky/Kasilof district. This district will encompass the area within the borough outside of the cities that includes the communities of Kalifornsky and Kasilof with the Kasilof river forming the southern boundary of this district.
5. South Peninsula district. This district will encompass the area within the borough outside of the cities that includes the communities of south of the Kasilof River including the area east of the city of Homer and across the Kachemak Bay.

An applicant who applies to fill a district seat but does not reside within that district may only be appointed by the mayor and confirmed by the assembly if no residents of the district apply.

[PLANNING COMMISSIONERS RESIDING OUTSIDE OF FIRST CLASS AND HOME RULE CITIES SHALL BE APPOINTED BY THE MAYOR AND CONFIRMED BY THE ASSEMBLY AND REPRESENTATIVE OF THE FOLLOWING ASSEMBLY DISTRICTS:

1. ASSEMBLY DISTRICT 1 - KALIFORNSKY;
2. ASSEMBLY DISTRICT 2 - KENAI;
3. ASSEMBLY DISTRICT 3 - NIKISKI;
4. ASSEMBLY DISTRICT 4 - SOLDOTNA;
5. ASSEMBLY DISTRICT 5 - STERLING/FUNNY RIVER;
6. ASSEMBLY DISTRICT 6 - EAST PENINSULA;
7. ASSEMBLY DISTRICT 7 - CENTRAL;
8. ASSEMBLY DISTRICT 8 - HOMER; AND
9. ASSEMBLY DISTRICT 9 - SOUTH PENINSULA.]

PLANNING COMMISSIONERS APPOINTED TO REPRESENT A DISTRICT SHOULD RESIDE WITHIN THAT DISTRICT. IN THE EVENT THAT NO QUALIFIED RESIDENTS OF A SINGLE MEMBER DISTRICT APPLY TO FILL A VACANCY FOR THAT DISTRICT'S SEAT, THEN THAT SEAT MAY BE FILLED WITH A QUALIFIED RESIDENT OF THE BOROUGH WHO RESIDES OUTSIDE OF CITY LIMITS. ONLY RESIDENTS LIVING WITHIN THE RESPECTIVE CITY OR SINGLE MEMBER DISTRICT MAY APPLY FOR A LOCATION SPECIFIC VACANCY. ANY BOROUGH RESIDENT WHO RESIDES OUTSIDE OF CITY LIMITS MAY APPLY "AT-LARGE" AND MAY BE SELECTED IN THE EVENT NO QUALIFIED RESIDENTS OF A SINGLE MEMBER DISTRICT APPLY TO FILL A VACANCY FOR THAT DISTRICT'S SEAT.]

- D. All planning commission members [SHALL] will meet the minimum qualifications of the appointed planning commission member seat description. All planning commission members will be appointed for their expertise and knowledge of the community, borough land use, and planning issues, as well as their familiarity with regulations and land use code, and [SHALL] must represent the entire borough. Prospective planning commission members must be in compliance with KPB Titles 14, 17, 20, and 21 and must not have any pending or unresolved code enforcement actions.

- E. A vacancy or expiring term on the planning commission will be noticed for at least 30 days by the borough clerk's office. All applications to fill a vacancy or expiring term must be submitted through the borough clerk's office. Applications to fill a city seat shall be transmitted to the city clerk's office at the close of the application period.

SECTION 2. That the current city seat for the city of Seldovia is vacant and does not require the removal of a member.

SECTION 3. That in the event this ordinance eliminates a seat on a planning commission and that the elimination necessitates the removal of a member or results in two planning commissioners eligible for a single at-large seat, then, notwithstanding any section of Borough Code to the contrary, the Mayor is authorized to effectuate the intent and purpose of this ordinance up to and including removing Planning Commissioners to avoid two planning commissioners occupying one at-large district seat.

SECTION 4. That the Assembly requests that the Borough Administration provide a map, to be approved by resolution, for the at-large district boundaries that effectuates the intent of the at-large district boundaries.

SECTION 5. This ordinance shall become effective immediately upon enactment.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 6TH DAY OF JUNE, 2023.


Brent Johnson, Assembly President

ATTEST:


Michele Turner, CMC, Acting Borough Clerk



Yes: Chesley, Cox, Ecklund, Hibbert, Tupper

No: Derkevorkian, Ribbens, Johnson

Absent: Elam

Introduced by: Mayor, Johnson
Date: 06/20/23
Hearing: 08/01/23
Action:
Vote:

**KENAI PENINSULA BOROUGH
ORDINANCE 2023-15**

**AN ORDINANCE AMENDING BOROUGH CODE TITLE 4, ELECTIONS,
REGARDING DECLARED WRITE-IN CANDIDATES, CANVASS OF ELECTION
RETURNS, PUBLIC NOTICE, AND CERTIFICATION OF ELECTION RESULTS**

WHEREAS, during the most recent Borough special mayoral election, it became apparent that a few specific provisions of Borough Code, Title 4, related to elections could be updated and clarified to improve transparency and clear processes;

WHEREAS, this ordinance updates Borough Code related to Declarations of Candidacy, and declared write-in candidates, reporting by individual of write-in votes, and the public process for the canvass board meeting, adjudicating ballot envelopes, auditing and confirming precinct results or vote totals, reporting the election results to the assembly, and election certification;

NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

SECTION 1. That KPB 4.30.020 is hereby amended to read as follows:

4.30.020. Declaration of candidacy.

- A. A candidate for municipal office is nominated by executing a declaration of candidacy under oath and filing it with the clerk in accordance with this section.
- B. A declaration of candidacy shall be in a form provided by the clerk and shall state the following:
 - 1. the full name of the candidate, and the manner in which [HE WISHES HIS] the candidate's name [TO]should appear on the ballot;
 - 2. the full residence address and mailing address[ES] of the candidate;
 - 3. the office for which the candidate declares;
 - 4. that the candidate is qualified for the office as provided by law;
 - 5. the dated, [AND]notarized statement of the candidate;
 - 6. the [CANDIDATE SHALL CERTIFY]certification by the candidate that all information contained in the declaration of candidacy is true and accurate;

7. any other information that the clerk reasonably requires to determine whether the candidate is qualified for the office as provided by law.

[C. DECLARATIONS OF CANDIDACY SHALL BE PROVIDED BY THE CLERK.]

[D.]C. Filing for elective offices of mayor, assembly, school board and service area boards shall be made by filing a declaration of candidacy with the borough clerk from 9:00 a.m. August 1st through August 15th, 4:30 p.m. Should August 15 be a Saturday or Sunday, then candidates shall have until noon on the first Monday following to file their declaration.

[E.]D. Filing for the elective offices of assembly member shall be made in accordance with Chapter 22.30 of this code and the reapportionment plans adopted in accordance with state law.

[F.]E. Declarations of C[C]andidacy may be filed with the clerk by electronic transmission; [and] the original signed and notarized statement must be delivered to the clerk by the close of the[n] filing period. If the original is not received by the clerk at the close of the filing period, the candidate's name shall not appear on the ballot.

[G.]F. Within four days after the filing of a declaration of candidacy, the clerk shall notify the candidate named in the declaration of candidacy whether or not [IT] the declaration of candidacy or other required paperwork is in proper form. If not, the clerk shall immediately return it with a statement certifying wherein the declaration of candidacy is deficient to the candidate. A new declaration of candidacy for the same candidate may be filed within the time for filing declarations of candidacy.

G. An individual who misses the declaration of candidacy deadline under this code, or as set by the assembly for a special election, may run as a write-in candidate. A declared write-in candidate must complete the Declaration of Candidacy Write-In Candidate form provided by the borough clerk at least [3 BUSINESS]5 days prior to the election date. In order to protect the integrity of the process and the deadlines for declared candidates and ballot printing requirements, the borough will not publish the declared write-in candidate's name on the borough website, will not publish the statement of candidate, and published election materials will not include the write-in candidate's name or other information.

SECTION 2. That KPB 4.70.050 is hereby amended to read as follows:

4.70.050. Write-in votes.

- A. Write-in votes are not invalidated by writing in the name of a candidate whose name is printed on the ballot. [UNLESS THE ELECTION BOARD DETERMINES, ON THE BASIS OF OTHER EVIDENCE, THAT THE BALLOT WAS SO MARKED FOR THE PURPOSE OF IDENTIFYING THE BALLOT.]
- B. In order to vote for a write-in candidate, the voter must write a candidate's name in the space provided and, in addition, mark the [SQUARE]oval opposite the candidate's name in accordance with KPB 4.70.040(A) Stickers may not be used. Use of stickers [CAN]will cause that portion of the ballot to be invalidated.
- C. Write-in votes will only be reported individually if the total number of write-in votes is materially significant to the outcome of the race. For the purposes of this subsection, materially significant means: (1) the total number of write-in votes exceeds that of all other

candidates; or (2) the total number of write-in votes exceeds the tabulated votes for the second-highest number of votes cast for a candidate whose name is printed on the ballot and a run-off election is required between the two top-vote-getting candidates. [SHALL ONLY BE TABULATED BY PERSON IF THE TOTAL NUMBER OF WRITE-IN VOTES FOR AN OFFICE EXCEEDS THE SMALLEST NUMBER OF VOTES CAST FOR A CANDIDATE FOR THAT OFFICE WHOSE NAME IS PRINTED ON THE BALLOT.]

SECTION 3. That KPB 4.90.020 is hereby amended to read as follows:

4.90.020. Canvass of returns.

- A. At least two weeks before the election date, the borough clerk's office will post notice on the borough's website of the tentative schedule of canvass board meetings. The date of all meetings of the canvass board will be posted on the borough's website on its elections page. Rules of conduct for viewing a meeting of the canvass board will be posted on the borough website and available at the clerk's office. The canvass board's processes and procedures will be conducted in accordance with KPB Chapter 4.60.

[NO LATER THAN THE MONDAY FOLLOWING EACH ELECTION, THE ELECTION CANVASS BOARD SHALL MEET IN PUBLIC SESSION AND CANVASS ALL ELECTION RETURNS. IN FULL VIEW OF THOSE PRESENT, AND IN ACCORDANCE WITH THE PROCEDURES SET FORTH IN KPB CHAPTER 4.60, THE ELECTION CANVASS BOARD SHALL JUDGE THE APPLICABILITY OF ABSENTEE AND QUESTIONED BALLOTS, SHALL OPEN AND TALLY THOSE ACCEPTED, AND SHALL COMPILE THE TOTAL VOTES CAST IN THE ELECTION. THE CANVASS OF THE BALLOT VOTE COUNTED BY THE PRECINCT ELECTION BOARDS SHALL BE ACCOMPLISHED BY REVIEWING THE TALLIES OF THE RECORDED VOTE TO CHECK FOR MATHEMATICAL ERROR BY COMPARING TOTALS WITH THE PRECINCT'S CERTIFICATE OF RESULTS. ALL OBVIOUS ERRORS FOUND BY THE ELECTION CANVASS IN THE TRANSFER OF TOTALS FROM THE PRECINCT TALLY SHEETS TO THE PRECINCT CERTIFICATE OF RESULTS SHALL BE CORRECTED BY THE CANVASS BOARD. A MISTAKE WHICH HAS BEEN MADE IN PRECINCT RETURNS THAT IS NOT CLEARLY AN ERROR IN THE TRANSFER OF THE RESULTS FROM THE TALLIES TO THE CERTIFICATE OF RESULTS EMPOWERS THE CANVASSING BOARD TO RECOMMEND A RECOUNT OF THE RESULTS OF THE PRECINCT OR PRECINCTS FOR THAT PORTION OF THE RETURNS IN QUESTION.]

- B. No later than seven days after absentee voting begins, the canvass board will meet in public session to begin adjudicating the suitability of absentee, special needs, and questioned ballot envelopes. The canvass board will continue to meet in public session through date of certification as needed. No votes will be tallied while the canvass board determines the suitability of absentee, special needs, and questioned ballots envelopes for further processing.
- C. On the first day following the election day, the canvass board will review the tallies of each precinct's recorded vote to check for mathematical error by comparing totals with that precinct's results tape. All obvious errors found by the canvass board in the transfer of totals between the precinct workbook and the precinct results tape will be corrected by the canvass board. A mistake or discrepancy in precinct returns that is not the result of a clear error in the transfer of the results from the tallies to the results tape constitute grounds for the canvass board to conduct a recount of the results of the precinct for the return(s) in question. If no

precinct discrepancies are identified by the canvass board, the canvass board will nonetheless choose at least one precinct, at random, to recount.

D. Ballot envelopes require certain information be provided by the voter on the envelope to be accepted by the canvass board for further processing. In an effort to ensure as many voters as possible have their ballots processed, the canvass board may institute a process in which a voter can correct deficiencies such as omissions of voter signature, witness signature, or voter identification affixed to the envelope. The process for a voter to correct deficiencies is known as a cure. Due to the fact that the cure process is only proper to correct deficiencies on the ballot envelopes, a voter cannot use the cure process to change their vote. For purposes of this subsection the process to cure deficiencies is as follows:

1. The canvass board, with the assistance of the clerk's office, will attempt to contact voter using available information for telephone or email contact.
2. The contacting person will explain to the voter the reason for the call and offer the voter an opportunity to cure the issue.
3. To cure an issue, the voter may come into the clerk's office in person and provide information needed. Alternatively, the clerk's office can email or fax a copy of the envelope showing where it is missing information.
4. Voter may provide information on the form/paper provided and return to the clerk's office either in person, by email, or by fax. Information must be received by 5:00 p.m. on the Friday following election day.
5. Upon a voter successfully curing a ballot envelope deficiency, the ballot envelope cure will be attached to ballot envelope with deficiency. Cured envelopes will then be further processed by canvass board.
6. Failure to cure a ballot envelope will result in rejection of the envelope and ballot, and the ballot will not be counted. The envelope will be labeled "rejected ballots" and will be preserved with other voted ballots.

E. No later than the weekend prior to certification, in full view of those present, the canvass board will meet in public session, in a location that is accessible to the public, and open and cast accepted ballots, and compile the total votes cast in the election, in accordance with the procedures set forth in KPB Chapter 4.60. Canvass board meetings held for the purpose of casting votes will be noticed on the borough website, on an official borough social media account, and posted at the borough clerk's office. The canvass board meetings to open and cast accepted ballots and compile the vote total must take place in a location that is open and accessible to the public.

F.[B.] Upon completion of the canvass, the canvass[ING] board [SHALL]will prepare a final certificate of the results of votes cast by absentee, special needs, and questioned [AND CHALLENGED] ballots and of votes cast [BY REGULAR BALLOT], and [SHALL]will prepare a written report of the results to be submitted to the assembly. The report will be provided to the Assembly prior to certification in accordance with KPB 4.90.050.

G.[C.] If election materials have not been received from a precinct prior to completion of the canvass, but election results have been transmitted by telephone, telegram, radio or electronic

transmission, the canvass[ING] board [SHALL]will count the election results received. If the borough clerk has reason to believe that a missing precinct [CERTIFICATE]results tape, if received, would affect the result of the election, the clerk shall await the receipt of the [CERTIFICATE]results tape until 2:00 p.m. on the Tuesday following the election. If the [CERTIFICATE]results tape is not received by the clerk by 2:00 p.m., Tuesday, then the [CERTIFICATE]results tape shall not be counted nor included in the final certification of the canvassing board.

SECTION 4. That KPB 4.90.030 is hereby repealed:

[4.90.030. PROCEDURES FOR HANDLING QUESTIONED BALLOTS.

THE CANVASSING BOARD BY MAJORITY VOTE MAY REFUSE TO ACCEPT THE QUESTION AND COUNT THE BALLOT OF A PERSON PROPERLY QUESTIONED. IF THE BALLOT IS REFUSED, THE CLERK SHALL RETURN A COPY OF THE STATEMENT QUESTIONING THE BALLOT TO THE VOTER, AND SHALL ENCLOSE ALL REJECTED BALLOTS IN A SEPARATE ENVELOPE WITH STATEMENTS OF THE BASIS FOR THE QUESTION. THE ENVELOPE SHALL BE LABELED WITH "REJECTED BALLOTS" AND SHALL BE PRESERVED WITH OTHER VOTED BALLOTS. IF THE BALLOT IS NOT REFUSED, THE LARGE ENVELOPE SHALL BE OPENED, THE SMALLER INNER ENVELOPE SHALL BE PLACED IN A CONTAINER AND MIXED WITH OTHER ABSENTEE BALLOT ENVELOPES OR, IN THE CASE OF COUNTING QUESTIONED BALLOTS, WITH OTHER QUESTIONED BALLOT ENVELOPES. THE MIXED SMALLER ENVELOPES SHALL BE DRAWN FROM THE CONTAINER AND OPENED, AND THE BALLOTS SHALL BE COUNTED ACCORDING TO THE RULES FOR DETERMINING PROPERLY MARKED BALLOTS.]

SECTION 5. That KPB 4.90.050 is hereby amended to read as follows:

4.90.050. Certification of the election results.

- A. As soon as possible after completion of the canvass, [BUT NO LATER THAN THE TUESDAY FOLLOWING THE ELECTION,] the assembly shall meet in public session to receive the report of the canvass board. [FOR A RUN-OFF ELECTION WHICH IS HELD THE SAME YEAR AS A STATE ELECTION AND A SCHEDULING CONFLICT EXISTS, THE ASSEMBLY SHALL MEET IN PUBLIC SESSION TO RECEIVE THE REPORT OF THE CANVASS BOARD, NO LATER THAN THE SECOND WEDNESDAY FOLLOWING THE ELECTION. IF, AFTER CONSIDERING THE REPORT, THE ASSEMBLY DETERMINES THAT THE ELECTION WAS VALIDLY HELD, THE ELECTION SHALL BE CERTIFIED BY RESOLUTION AND ENTERED UPON THE MINUTES OF THE MEETING, TOGETHER WITH THE TOTAL NUMBER OF VOTES CAST FOR EACH CANDIDATE AND FOR OR AGAINST EACH PROPOSITION OR QUESTION.]
- B. If the canvass board reports that a failure to comply with provisions of state law and borough ordinances, or an illegal election practice has occurred, and that such failure is sufficient to change the outcome of the election, then the assembly may exclude the votes cast in one or more precincts where such failure or illegal practices occurred from the total returns, or may declare the entire election invalid and order a new election.

[C. IF THE CANVASS BOARD REPORTS AN APPARENT DISCREPANCY IN THE RETURNS OF ONE OR MORE PRECINCTS, THE ASSEMBLY MAY ORDER A RECOUNT OF VOTES CAST IN SAID PRECINCT OR PRECINCTS. SUCH RECOUNT SHALL BE CONDUCTED IMMEDIATELY BY THE CANVASS BOARD AND THE RESULTS SHALL BE REPORTED TO THE ASSEMBLY. THE ASSEMBLY SHALL MEET AS SOON AS POSSIBLE TO CERTIFY THE RESULTS OF THE ELECTION RECOUNT]

[D]C. Upon certification of a valid election, the clerk shall deliver to each person elected to office a certificate of election, signed by the clerk and authenticated by the seal of the borough.

SECTION 6. That this ordinance shall be effective immediately upon enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS * DAY OF * 2023.

Brent Johnson, Assembly President

ATTEST:

Michele Turner, CMC, Acting Borough Clerk

Yes:

No:

Absent:

Kenai Peninsula Borough

Clerk's Office

MEMORANDUM

TO: Members, Kenai Peninsula Borough Assembly

THRU: Peter A. Micciche, Mayor *PM*
Brent Johnson, Assembly President *BJ*

FROM: Michele Turner, Acting Borough Clerk *(MT)*
Sean Kelley, Borough Attorney *SK*

DATE: June 8, 2023

RE: Ordinance 2023- *15*, Amending Borough Code Title 4, Elections, Regarding Declared Write-In Candidates, Canvass of Election Returns, Public Notice, and Certification of Election Results (Mayor, Johnson)

Note from Mayor Micciche and Elections/Legal Staff: A primary responsibility of the Kenai Peninsula Borough is transparent elections and the processes that lead to such. Following the special mayoral election, staff, Mayor Micciche, Assembly members, election workers, and constituents, identified sections of the Borough's election code that should be improved and clarified in order to ensure that each key step is documented within Borough elections, executed accordingly, and demonstrated to the public.

At the outset, it is important to recognize that Borough elections are secure and transparent. There is not an election integrity issue in the Kenai Peninsula Borough. The recent special election did, however, present several unique scenarios related to public awareness of Canvass Board meetings, the availability of an adequate meeting space for the public to view canvassing operations and the counting of write-in candidate vote results by individuals. While the Borough Clerk's Office acknowledged that the language in Borough code required the write-in votes by individual in this unique case per Borough Code, it was also clear to canvass board that a candidate surpassed the required 50% +1 vote threshold to be certified the winner of the election, and a run-off election would not be necessary. Nonetheless, the Borough must be transparent and identify code language regarding write-in candidates, the public Canvass Board process, and reporting of write-in votes by individual that should be clarified to avoid a similar future situation.

This Ordinance brings forward input from constituents and election workers aimed to improve and further fortify Borough election code. The amendments clarify what it means to be a "declared write-in candidate" and the vote thresholds that trigger the reporting of write-in votes individually. The proposed amendments set forth the Canvass Board process chronologically, and emphasize that the process must be open to the public. The proposed amendments include additional public notice and posting requirements for Canvass Board meetings so that the public is fully aware of the board's tentative and actual meeting schedule. The Ordinance also provides that rules will be developed for observing the Canvass Board, because to protect the integrity of the process we must also protect the election workers who work long, methodical, hours to safeguard the integrity and accuracy of the results.

June 8, 2023

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RE: O2023-_____

The below breakdown provides additional details regarding these proposed changes. This Ordinance is brought forward to clarify and improve current code, not re-write Borough elections code. Borough elections have been and will continue to be safe, secure, transparent, and accurate. Statements to the contrary tend to center on concerns with recent State or Federal elections, which the Borough does not administer.

Thank you – Mayor Micciche, Elections Staff and Legal

Details of amendments in the Ordinance:

Amendments to KPB 4.30.020

- Subsection B – Clerical edits
- Subsection C – Repealed. It is redundant and already stated under Subsection B.
- Remaining Subsections are re-ordered.
- Subsection G – New subsection that sets forth the process for a declared write-in candidate and the fact that a write-in candidate's name or information will not be published on the borough website or in published election materials (due to missing the Declaration of Candidacy deadline to be a candidate on the ballot.)

Amendments to KPB 4.70.050

- Subsection A – Removes some canvass board discretion or subjectivity.
- Subsection B – clerical edits.
- Subsection C – Contains substantive to clarify when write-in votes need to be reported individually. Write-in votes will be reported individually when the total number of write-in votes is "materially significant" to the outcome of the race. Materially significant means: (1) the total number of write-in votes exceeds that of all other candidates; or (2) the total number of write-in votes exceeds the tabulated votes for the second-highest number of votes cast for a candidate whose name is printed on the ballot and a run-off election is required between the two top-vote-getting candidates.
 - o In sum, if the total number of write-in votes is greater than the number of votes for all other candidates than necessarily write-in votes must be reported by individual. In addition, write-in votes will be reported individually if the total number of write-in votes is greater than the second place vote getter AND a run-off is required because the candidate receiving the most votes did not receive a sufficient number of votes to be certified as the winner.

Amendments to KPB 4.90.020

- With substantial input from the chair of the canvass board, this section was edited and reordered to set forth the canvass board process in chronological order.
- The amendments set forth following chronological process:
 - o Subsection A – At least 2 weeks prior to the election date, the borough clerk's office will post the tentative schedule of the canvass board on the borough website. Rules of conduct for viewing a meeting of the canvass board will be posted and available at the clerk's office.

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RE: O2023-_____

- Subsection B – Within a week of the start of absentee voting, the canvass board will meet in public session to adjudicate the suitability of absentee, special needs and question ballot envelopes. “Adjudicating the suitability” is discussed in more detail in subsection D which is really limited to deficiencies on the face of the ballot envelope. The canvass board will not tally votes during this process and will not open the ballot envelope until the adjudication of their suitability has been completed.
- Subsection C – On the first day following the election day, the canvass board will ensure the precinct’s recorded vote total matches the precinct’s results tape. Discrepancies between the two will trigger a recount for that precinct. If there are no discrepancies identified in any of the precinct’s results then the canvass board will nonetheless choose at least one precinct at random to recount.
- Subsection D – Details the ballot envelope cure process available to an absentee voter. The cure process may not be used to change a vote. This subsection also provides that the failure to cure will result in rejection of the envelope and ballot and the ballot will not be counted.
- Subsection E – No later than the weekend prior to certification the canvass board will open and cast accepted ballots and compile the vote total. This process, as always, is open to the public will be noticed on the borough website, the borough’s official social media pages, and posted at the borough clerk’s office. The process will occur in a place that is open and accessible to the public.
- Subsection G – Retains the deadline in code for the receipt of a precinct’s results tap in order for a precinct’s results to be included in

Repeal of KPB 4.90.030

- This section is repealed because it is duplicative to the new KPB 4.90.020(D)(6) which describes rejection of ballots when the ballot envelope is not cured.

Amendments to KPB 4.90.050

- Subsection A – Incorporates flexibility for when the Assembly must meet in public session to receive the report of the canvass board.
- Subsection B – unchanged.
- Current Subsection C – repealed due to the fact that this process is already addressed under KPB 4.90.020 and is duplicative. The canvass board will recount any apparent discrepancies in the returns of one or more precincts.
- Subsection D – Adds a clerical edit.

Your consideration is appreciated.

Kenai Peninsula Borough
Office of the Borough Mayor

MAYOR'S REPORT TO THE ASSEMBLY

TO: Brent Johnson, Assembly President
Members, Kenai Peninsula Borough Assembly

FROM: Peter A. Micciche, Kenai Peninsula Borough Mayor *PAM*

DATE: June 20, 2023

Assembly Request / Response

None

Agreements and Contracts

- a. Authorization to Award a Contract for ITB23-048 West Homer Elementary Siding & Windows
- b. Authorization to Award a Contract for RFP23-006 Soldotna High School Professional Design Services
- c. Authorization to Award a Contract for RFP23-017 Kenai Central High School Concession Stand / Restroom

Other

- a. Certification of the 2023 Main Roll Assessment
- b. Budget Revisions – May 2023
- c. Revenue – Expenditures Report – May 2023

Kenai Peninsula Borough Purchasing & Contracting

MEMORANDUM

TO: Peter A. Micciche, Borough Mayor

THRU: John Hedges, Purchasing & Contracting Director *JH*

FROM: Carmen Vick, Project Manager *CV*

DATE: May 31, 2023

RE: Authorization to Award a Contract for ITB23-048 West Homer Elementary Siding & Windows

The Purchasing and Contracting Office formally solicited and received bids for the ITB23-048 West Homer Elementary Siding & Windows. Bid packets were released on April 13, 2023 and the Invitation to Bid was advertised in the Peninsula Clarion, Homer News and Anchorage Daily News on April 13, 2023.

The project consists of to providing all labor & materials to repair interior wall finishes, install siding and replace windows & lighting per contract documents.

On the due date of May 10, 2023, five (5) bids were received and reviewed to ensure that all the specifications and delivery schedules were met. The low bid of \$316,252.00 was submitted by Steiner's North Star Construction, Homer, Alaska.

Your approval for this bid award is hereby requested. Funding for this project is in account number 400-72051-SLF04-43011.

Peter A. Micciche

Peter A. Micciche, Borough Mayor

5/31/2023


Date

FINANCE DEPARTMENT FUNDS VERIFIED	
Acct. No.	400-72051-SLF04-43011
Amount	\$316,252.00
By: <i>CJ BH</i>	Date: 5/31/2023

NA

**KENAI PENINSULA BOROUGH
PURCHASING & CONTRACTING****BID TAB FOR: ITB23-048 West Homer Elementary Siding and Windows**

CONTRACTOR	LOCATION	BASE BID
Steiner's North Star Construction	Homer, Alaska	\$316,252.00
Jay-Brant General Contractors, LLC	Homer, Alaska	\$384,171.00
Build Slaska Genreral Contracting, LLC	Homer, Alaska	\$418,000.00
H Construction, LLC	Palmer, Alaska	\$525,000.00
Building Specialties, Inc.	Anchor Point, Alaska	\$564,000.00

DUE DATE: May 10, 2023**KPB OFFICIAL:**
John Hedges, Purchasing & Contracting Director

Kenai Peninsula Borough

Purchasing & Contracting

MEMORANDUM

TO: Peter A. Micciche, Borough Mayor

THRU: John Hedges, Purchasing & Contracting Director *JH*

FROM: Carmen Vick, Project Manager *CV*

DATE: May 31, 2023

RE: Authorization to Award a Contract for RFP23-006 Soldotna High School Professional Design Services

On April 14, 2023, the Kenai Peninsula Borough Purchasing & Contracting Department formally solicited proposals for RFP23-006 Soldotna High School Professional Design Services. The request for proposals was advertised in the Peninsula Clarion and the Anchorage Daily News on April 14, 2023.

The project is for Phase 1, providing, but not limited to Professional Design, Architectural, Mechanical, Electrical, Structural (all disciplines) as needed to complete a comprehensive inspection and schematic level concept development design basis report. The report must also include existing conditions, siding options and estimates for consideration by Owner representative.

On the due date of May 3, 2023, two (2) proposals were received and reviewed by a review committee as follows:

<u>FIRMS</u>	<u>LOCATION</u>	<u>TOTAL SCORE</u>
Nvision Architecture, Inc.	Anchorage, Alaska	326
Architects Alaska	Anchorage, Alaska	311

The highest-ranking proposal, which includes a cost factor, was submitted by Nvision Architecture, Inc. with a lump sum cost proposal of \$84,255.00. The proposal review committee recommends award of a contract to Nvision Architecture, Inc., Anchorage, Alaska. Your approval for this award is hereby requested.

Funding of this contract will be charged to account number 401-78050-23S10-49311.

Peter A. Micciche

6/1/2023

Peter A. Micciche, Borough Mayor

Date

NA

FINANCE DEPARTMENT FUNDS VERIFIED	
Acct. No.	401-78050-23S10-49311
Amount	\$84,255.00
By: <i>CV BH</i>	Date: 5/31/2023

Kenai Peninsula Borough

Purchasing & Contracting

MEMORANDUM

TO: Peter A. Micciche, Borough Mayor

THRU: John D. Hedges, Purchasing & Contracting Director *JH*

FROM: Carmen Vick, Project Manager *CV*

DATE: May 25, 2023

RE: Authorization to Award a Contract for RFP23-017 Kenai Central High School Concession Stand / Restroom

On April 7, 2023, the Kenai Peninsula Borough Purchasing & Contracting Department formally solicited proposals for RFP23-017 Kenai Central High School Concession Stand / Restroom. The request for proposals was advertised in the Peninsula Clarion and the Anchorage Daily News on April 7, 2023.

The project consists of providing professional engineering design and CA Services for the purpose of preparing comprehensive construction documents to be used for soliciting bids for construction of a trackside Concession Stand with Restroom at Kenai Central High School, 9583 Kenai Spur Hwy, Kenai, AK.

On the due date of April 26, 2023, one (1) proposal was received from Architects Alaska was received and reviewed by the Purchasing & Contracting Department.

The proposal, which includes a cost factor, was submitted by Architects Alaska with a lump sum cost proposal of \$97,990.00. The Purchasing & Contracting Department recommends award of a contract to Architects Alaska, Anchorage, Alaska. Your approval for this award is hereby requested.

Funding of this contract will be charged to account number 401.78050.23S04.49311.

Peter A. Micciche

5/25/2023

Peter A. Micciche, Borough Mayor


Date

FINANCE DEPARTMENT FUNDS VERIFIED	
Acct. No.	401.78050.23S04.49311
Amount:	\$97,990.00
By: <i>CV BH</i>	Date: 5/25/2023

NA

Kenai Peninsula Borough
Assessing Department

MEMORANDUM

TO: Peter A. Micciche, Borough Mayor 
FROM: Adeena Wilcox, Borough Assessor
DATE: June 1, 2023
RE: Certification of the 2023 Main Roll Assessment

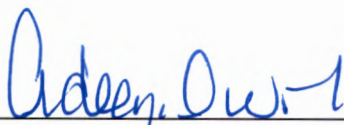
The undersigned, duly qualified and appointed Assessor of the Kenai Peninsula Borough, does hereby certify that the following is the total valuation contained in the 2023 Main Assessment Roll as of June 1, 2023.

The total assessed value for the Kenai Peninsula Borough, including all properties on this assessment roll is as follows:

PERSONAL PROPERTY	REAL PROPERTY	OIL PROPERTY	TOTAL PROPERTY
\$364,233,541	\$19,581,505,000	\$1,570,245,250	\$21,515,983,791

The total taxable value for the Kenai Peninsula Borough is as follows:

PERSONAL PROPERTY	REAL PROPERTY	OIL PROPERTY	TOTAL PROPERTY
\$330,325,798	\$7,825,731,200	\$1,570,245,250	\$9,726,302,248


Adeena Wilcox, Borough Assessor

**KENAI PENINSULA BOROUGH
SUMMARY OF COMBINED PROPERTY VALUES**

Assessed Value before Exemptions

Assessed Value		VALUE
Personal Property	\$	364,233,541
Real Property	\$	19,581,505,000
Oil Property	\$	1,570,245,250
TOTAL BOROUGH ASSESSED	\$	21,515,983,791

Assessed Value after Exemptions

Taxable Value		VALUE
Personal Property	\$	330,325,798
Real Property	\$	7,825,731,200
Oil Property	\$	1,570,245,250
TOTAL BOROUGH TAXABLE	\$	9,726,302,248

2023 CERTIFIED MAIN ROLL

SERVICE AREA TAXABLE VALUES			
TAG 57	Bear Creek Fire Service Area		
		Assessed Value	Taxable Value
	REAL	358,777,200	254,718,100
	OIL	-	-
	PERSONAL	2,330,066	1,929,625
	TOTAL	361,107,266	256,647,725
<hr/>			
TAG 54, 58, 70	Central Emergency Services Area		
		Assessed Value	Taxable Value
	REAL	5,400,542,000	3,234,126,200
	OIL	128,233,340	128,233,340
	PERSONAL	132,584,766	120,026,207
	TOTAL	5,661,360,106	3,482,385,747
<hr/>			
TAG 30,53,54,55,58,61,63,70	Central Kenai Peninsula Hospital Service Area (TY18 & Prior)		
		Assessed Value	Taxable Value
	REAL	10,512,949,200	4,807,913,800
	OIL	1,302,503,330	1,302,503,330
	PERSONAL	216,593,520	193,806,989
	TOTAL	12,032,046,050	6,304,224,119
<hr/>			
TAG 30,53,54,55,58,59,61,62,63,70	Central Kenai Peninsula Hospital Service Area (TY19 & Future)		
		Assessed Value	Taxable Value
	REAL	10,675,426,400	4,874,167,000
	OIL	1,389,139,440	1,389,139,440
	PERSONAL	218,029,800	195,153,625
	TOTAL	12,282,595,640	6,458,460,065
<hr/>			
TAG 62,63,64	Central Peninsula Emergency Med		
		Assessed Value	Taxable Value
	REAL	158,189,800	7,879,300
	OIL	-	-
	PERSONAL	774,799	758,870
	TOTAL	158,964,599	8,638,170
<hr/>			
TAG 81	Kachemak Emergency Service Area		
		Assessed Value	Taxable Value
	REAL	803,912,800	524,379,100
	OIL	-	-
	PERSONAL	9,377,750	8,921,460
	TOTAL	813,290,550	533,300,560
<hr/>			
TAG 11,43,53,54,55,57,58,59,61,62,63,64,65,67,68,69,81	Road Service Area		
		Assessed Value	Taxable Value
	REAL	14,022,316,100	5,072,192,400
	OIL	1,522,295,790	1,522,295,790
	PERSONAL	219,697,918	209,057,970
	TOTAL	15,764,309,808	6,803,546,160
<hr/>			
TAG 53, 55	Nikiski Fire Service Area		
		Assessed Value	Taxable Value
	REAL	2,853,669,100	745,397,200
	OIL	1,126,464,530	1,126,464,530
	PERSONAL	45,270,661	42,281,762
	TOTAL	4,025,404,291	1,914,143,492

2023 CERTIFIED MAIN ROLL

TAG 55

Nikiski Senior Service Area

	Assessed Value	Taxable Value
REAL	2,706,878,800	655,166,100
OIL	1,113,617,140	1,113,617,140
PERSONAL	41,270,612	39,250,033
TOTAL	3,861,766,552	1,808,033,273

TAG 53,54,55

North Peninsula Recreation Area

	Assessed Value	Taxable Value
REAL	2,901,682,500	745,397,200
OIL	1,171,423,230	1,171,423,230
PERSONAL	45,961,043	42,968,411
TOTAL	4,119,066,773	1,959,788,841

TAG 40,41,43,57

Seward / Bear Creek Flood Service Area

	Assessed Value	Taxable Value
REAL	1,188,880,700	594,702,100
OIL	144,000	144,000
PERSONAL	26,254,802	21,122,634
TOTAL	1,215,279,502	615,968,734

TAG 20,21,52,59,62,64,65,68,80,81

South Kenai Peninsula Hospital Service Area (TY18 & Prior)

	Assessed Value	Taxable Value
REAL	5,362,427,100	2,017,852,000
OIL	267,597,920	267,597,920
PERSONAL	108,625,783	103,780,572
TOTAL	5,738,650,803	2,389,230,492

TAG 11,20,21,52,62,64,65,68,69,80,81

South Kenai Peninsula Hospital Service Area (TY19 & Future)

	Assessed Value	Taxable Value
REAL	5,920,951,800	2,045,959,700
OIL	225,971,910	180,961,810
PERSONAL	152,983,898	103,002,288
TOTAL	6,299,907,608	2,329,923,798

TAG 10,11

Seldovia RSA

	Assessed Value	Taxable Value
REAL	183,916,400	89,969,500
OIL	-	-
PERSONAL	1,483,568	1,087,824
TOTAL	185,399,968	91,057,324

TAG 59, 68

Western Emergency Services Area

	Assessed Value	Taxable Value
REAL	838,061,600	479,561,900
OIL	253,206,360	253,206,360
PERSONAL	49,937,941	48,634,641
TOTAL	1,141,205,901	781,402,901

ALL TAGS

KPB - Borough Wide

	Assessed Value	Taxable Value
REAL	19,581,505,000	7,825,731,200
OIL	1,570,245,250	1,570,245,250
PERSONAL	364,233,541	330,325,798
TOTAL	21,515,983,791	9,726,302,248

2023 CERTIFIED MAIN ROLL

		BOROUGH		CITY	
		Assessed	Taxable	Assessed	Taxable
City of Seldovia Tag 10	REAL	89,189,400	42,988,600	89,189,400	46,453,600
	OIL	-	-	-	-
	PERSONAL	1,086,109	879,095	1,086,109	1,086,109
	TOTAL	90,275,509	43,867,695	90,275,509	47,539,709
City of Homer Tag 20	REAL	1,547,404,200	840,039,800	1,547,404,200	940,906,000
	OIL	-	-	-	-
	PERSONAL	42,715,533	39,987,871	42,715,533	38,465,196
	TOTAL	1,590,119,733	880,027,671	1,590,119,733	979,371,196
City of Homer Tag 21 ODL	REAL	4,092,000	2,995,700	4,092,000	3,537,300
	OIL	-	-	-	-
	PERSONAL	-	-	-	-
	TOTAL	4,092,000	2,995,700	4,092,000	3,537,300
City of Kenai Tag 30	REAL	1,444,485,600	815,868,100	1,444,485,600	909,613,500
	OIL	47,805,460	47,805,460	47,805,460	47,805,460
	PERSONAL	37,824,367	30,619,527	42,661,041	42,277,283
	TOTAL	1,530,115,427	894,293,087	1,534,952,101	999,696,243
City of Seward Tag 40	REAL	701,631,400	302,962,800	701,631,400	329,353,700
	OIL	-	-	-	-
	PERSONAL	20,181,522	15,801,156	70,767,433	70,767,433
	TOTAL	721,812,922	318,763,956	772,398,833	400,121,133
Seward Special Tag 41	REAL	94,495,600	14,591,500	94,495,600	14,791,500
	OIL	144,000	144,000	144,000	144,000
	PERSONAL	3,629,901	3,379,244	12,835,236	12,835,236
	TOTAL	98,269,501	18,114,744	107,474,836	27,770,736
City of Soldotna Tag 70	REAL	1,257,324,600	571,092,000	1,257,324,600	638,800,500
	OIL	-	-	-	-
	PERSONAL	34,447,573	26,280,039	34,447,573	25,030,718
	TOTAL	1,291,772,173	597,372,039	1,291,772,173	663,831,218
Kachemak City Tag 80	REAL	142,800,600	101,562,700	142,800,600	124,747,100
	OIL	-	-	-	-
	PERSONAL	4,290,107	4,060,686	-	-
	TOTAL	147,090,707	105,623,386	142,800,600	124,747,100

Kenai Peninsula Borough
Finance Department

MEMORANDUM

TO: Brent Johnson, Assembly President
Members of the Kenai Peninsula Borough Assembly

THRU: Peter A. Micciche, Borough Mayor *AM*

THRU: Brandi Harbaugh, Finance Director *BB*

FROM: Sarah Hostetter, Payroll Accountant *SH*

DATE: June 5, 2023

RE: Budget Revisions – May 2023

Attached is a budget revision listing for May 2023. The attached list contains budget revisions between major expenditure categories (i.e., maintenance & operations and capital outlay). Other minor transfers were processed between object codes within major expenditure categories.

FINANCE - PROPERTY TAX & CASH MANAGEMENT

To purchase an office calendar.

100-11440-00000-43260 (Training)		\$14.00
100-11440-00000-42210 (Operating Supplies)	\$14.00	

GENERAL FUND NON DEPARTMENTAL - SOLDOTNA PREP SCHOOL

To cover supplies from Maintenance chargebacks.

100-94910-SPREP-43780 (Building & Grounds Maintenance)		\$6,000.00
100-94910-SPREP-42310 (Repair & Maintenance Supplies)	\$6,000.00	

KACHEMAK EMERGENCY SERVICES

Moving funds to cover minor improvement costs.

212-51810-00000-42410 (Small Tools & Minor Equipment)		\$5,600.00
212-51810-00000-48770 (Minor Improvements Other Than Buildings)	\$5,600.00	

KACHEMAK EMERGENCY SERVICES

To purchase flagpoles, money is available due to fewer than expected repairs needed this year.

212-51810-00000-43780 (Building & Grounds Maintenance)		\$5,600.00
212-51810-00000-42410 (Small Tools & Minor Equipment)	\$5,600.00	

LEGAL DEPARTMENT

To purchase software for a Surface Pro to eliminate laptop sharing.

100-11310-00000-43011 (Contract Services)		\$1,036.00
100-11310-00000-42120 (Computer Software)	\$60.00	
100-11310-00000-43019 (Software Licensing)	\$976.00	

MAINTENANCE DEPARTMENT

To cover supplies for the rest of the fiscal year.

241-41010-00000-43764 (Snow Removal)		\$100,000.00
241-41010-00000-42310 (Repair/Maintenance Supplies)	\$100,000.00	

MAINTENANCE DEPARTMENT

To purchase a plow and a Surface Pro.

241-41010-00000-42310 (Repair & Maintenance Supplies)		\$15,000.00
241-41010-00000-48311 (Machinery & Equipment)	\$12,000.00	
241-41010-00000-48710 (Minor Office Equipment)	\$3,000.00	

MAY 2023 CONTINUED**INCREASE DECREASE****MAINTENANCE DEPARTMENT**

To cover end of fiscal year projects and purchases.

241-41010-00000-42310 (Repair & Maintenance Supplies)		\$27,600.00
241-41010-00000-48710 (Minor Office Equipment)	\$6,700.00	
241-41010-00000-48740 (Minor Machines & Equipment)	\$900.00	
241-41010-00000-43780 (Building & Grounds Maintenance)	\$20,000.00	

NIKISKI FIRE SERVICE AREA

To cover chargeback costs.

206-51110-00000-42220 (Medical Supplies)		\$3,000.00
206-51110-00000-43780 (Building & Grounds Maintenance)	\$3,000.00	

PLANNING - GEOGRAPHIC INFO SYSTEMS

To purchase a new desk for the GIS Specialist.

100-11232-00000-43011 (Contract Services)		\$1,000.00
100-11232-00000-48720 (Minor Office Furniture)	\$1,000.00	

PLANNING - GEOGRAPHIC INFO SYSTEMS

To clean up accounts after purchasing software.

100-11232-00000-42120 (Computer Software)		\$8,920.00
100-11232-00000-43019 (Software Licensing)	\$8,920.00	

PLANNING - GEOGRAPHIC INFO SYSTEMS

To purchase a sit to stand desk converter for dual monitors.

100-11232-00000-43011 (Contract Services)		\$600.00
100-11232-00000-48720 (Minor Office Furniture)	\$600.00	

ROAD SERVICE AREA

To purchase cameras needed for the impound yard.

236-33950-ENFOR-43011 (Contract Services)		\$600.00
236-33950-00000-42410 (Small Tools & Minor Equipment)	\$600.00	

ROAD SERVICE AREA

Transferring a wage surplus to cover road maintenance expenses.

236-33950-00000-40110 (Regular Wages)		\$100,000.00
236-33950-00000-43952 (Road Maintenance)	\$100,000.00	

MAY 2023 CONTINUED**INCREASE DECREASE****SELDOVIA RECREATION**

To cover expenses for the rest of the fiscal year.

227-61210-00000-43011 (Contractual Services)		\$2,287.23
227-61210-00000-43610 (Public Utilities)	\$1,500.00	
227-61210-00000-42210 (Operating Supplies)	\$787.23	

SOLID WASTE - ADMINISTRATION

To repair the department's truck.

290-32010-00000-43011 (Contract Services)		\$1,000.00
290-32010-00000-42360 (Motor Vehicle Repair Supplies)	\$1,000.00	

SOLID WASTE - HOMER TRANSFER

To purchase supplies in Homer, the inert waste study project is put on hold.

290-32310-00000-43011 (Contract Services)		\$5,000.00
290-32310-00000-42210 (Operating Supplies)	\$5,000.00	

SOLID WASTE - HOMER TRANSFER

To purchase a printer for the Homer transfer site.

290-32310-00000-43011 (Contract Services)		\$589.80
290-32310-00000-48710 (Minor Office Equipment)	\$589.80	

SOLID WASTE - LANDFILL

To purchase litter bags for the summer litter crew.

290-32122-00000-48311 (Machinery & Equipment)		\$2,000.00
290-32122-00000-42210 (Operating Supplies)	\$2,000.00	

SOLID WASTE - LANDFILL & MISC LANDFILLS

To purchase heavy duty totes for rural sites.

290-32122-00000-48311 (Machinery & Equipment)		\$10,404.00
290-32570-00000-42410 (Small Tools & Equipment)	\$10,404.00	

SOLID WASTE - SEWARD TRANSFER & MISC LANDFILLS

To purchase and deliver a conex for the Seward transfer site.

290-32150-00000-43780 (Building & Grounds Maintenance)		\$150.00
290-32570-00000-48520 (Storage Equipment)		\$5,700.00
290-32150-00000-48520 (Storage Equipment)	\$5,850.00	

MAY 2023 CONTINUED**INCREASE** **DECREASE**

WESTERN EMERGENCY SERVICES

To purchase parts for an apparatus.

209-51410-00000-43750 (Vehicle Maintenance)		\$4,800.00
209-51410-00000-42360 (Motor Vehicle Repair Supplies)	\$4,800.00	

Kenai Peninsula Borough
Finance Department

MEMORANDUM

TO: Brent Johnson, Assembly President
Members of the Kenai Peninsula Borough Assembly

THRU: Peter A. Micciche, Borough Mayor *PAM*

THRU: Brandi Harbaugh, Finance Director *BH*

FROM: Sarah Hostetter, Payroll Accountant *SH*

DATE: June 5, 2023

RE: Revenue-Expenditure Report – May 2023

Attached is the Revenue-Expenditure Report of the General Fund for the month of May 2023. Please note that 91.67% of the year has elapsed, 83.87% of budgeted revenues have been collected, and 83.45% of budgeted expenditures have been made.

KENAI PENINSULA BOROUGH
Revenue Report
For the Period
May 1 through May 31, 2023

ACCOUNT NUMBER	DESCRIPTION	ESTIMATED REVENUE	YEAR TO DATE RECEIPTS	MONTH TO DATE RECEIPTS	VARIANCE	% COLLECTED
31100	Real Property Tax	\$ 31,396,714	\$ 31,664,874	\$ 33,615	\$ 268,160	100.85%
31200	Personal Property Tax	1,867,988	2,064,936	3,412	196,948	110.54%
31300	Oil Tax	6,755,283	6,755,285	-	2	100.00%
31400	Motor Vehicle Tax	642,580	377,032	42,176	(265,548)	58.67%
31510	Property Tax Penalty & Interest	717,562	552,361	10,487	(165,201)	76.98%
31610	Sales Tax	46,000,000	33,264,199	3,249,470	(12,735,801)	72.31%
33110	In Lieu Property Tax	3,100,000	-	-	(3,100,000)	0.00%
33117	Other Federal Revenue	288,372	163,373	62,222	(124,999)	56.65%
33220	Forestry Receipts	600,714	600,714	600,714	-	100.00%
34110	School Debt Reimbursement	2,449,113	1,602,461	-	(846,652)	65.43%
34221	Electricity & Phone Revenue	155,000	-	-	(155,000)	0.00%
34222	Fish Tax Revenue Sharing	500,000	287,034	-	(212,966)	57.41%
34210	Revenue Sharing	894,402	894,402	-	-	100.00%
37350	Interest on Investments	364,493	1,980,001	142,101	1,615,508	543.22%
39000	Other Local Revenue	265,000	343,094	20,318	78,094	129.47%
290	Solid Waste	661,423	516,605	4,036	(144,818)	78.11%
Total Revenues		\$ 96,658,644	\$ 81,066,371	\$ 4,168,552	\$ (15,592,272)	83.87%

KENAI PENINSULA BOROUGH
Expenditure Report
For the Period
May 1 through May 31, 2023

DESCRIPTION	REVISED BUDGET	YEAR TO DATE EXPENDED	MONTH TO DATE EXPENDED	AMOUNT ENCUMBERED	AVAILABLE BALANCE	% EXPENDED
Assembly:						
Administration	\$ 540,587	\$ 427,798	\$ 23,333	\$ 8,670	\$ 104,118	79.14%
Clerk	616,714	366,040	31,706	7,177	243,497	59.35%
Elections	473,863	337,857	15,565	13,622	122,384	71.30%
Records Management	439,912	365,669	34,596	5,447	68,796	83.12%
Mayor Administration	1,114,354	547,484	50,748	9,323	557,547	49.13%
Purch/Contracting/Cap Proj	710,159	530,272	44,297	9,069	170,819	74.67%
Human Resources:						
Administration	930,768	693,133	54,265	11,173	226,462	74.47%
Print/Mail	240,995	172,803	10,214	9,433	58,759	71.70%
Custodial Maintenance	132,655	109,049	10,264	405	23,201	82.20%
Information Technology	2,463,342	1,776,896	125,017	51,938	634,508	72.13%
Emergency Management	1,068,719	662,548	44,614	40,608	365,563	61.99%
Legal Administration	1,610,948	1,139,564	113,326	241,290	230,093	70.74%
Finance:						
Administration	579,568	516,759	51,075	2,692	60,117	89.16%
Services	1,193,353	1,031,907	81,196	4,613	156,832	86.47%
Property Tax	1,187,490	842,214	56,404	105,200	240,076	70.92%
Sales Tax	1,226,455	850,959	81,103	515	374,982	69.38%
Assessing:						
Administration	1,482,895	1,253,302	94,222	8,719	220,873	84.52%
Appraisal	1,784,074	1,404,532	117,625	2,670	376,872	78.73%
Resource Planning:						
Administration	1,711,405	1,062,729	103,316	180,878	467,799	62.10%
GIS	722,796	470,996	30,325	4,430	247,371	65.16%
River Center	834,026	675,295	48,554	20,107	138,624	80.97%
Senior Citizens Grant Program	791,444	591,819	53,904	199,625	-	74.78%
School District	61,754,684	57,364,327	5,112,779	-	4,390,357	92.89%
Solid Waste Operations	13,046,726	9,653,406	553,507	1,576,299	1,817,021	73.99%
Economic Development	549,878	144,509	5,108	345,041	60,328	26.28%
Non-Departmental	6,134,273	3,250,492	96,943	66,834	2,816,947	52.99%
Total Expenditures	\$ 103,342,082	\$ 86,242,357	\$ 7,044,004	\$ 2,925,779	\$ 14,173,946	83.45%