



Kenai Peninsula Borough

144 North Binkley Street
Soldotna, AK 99669

Meeting Minutes - Final

Assembly

Wayne Ogle, President
Dale Bagley, Vice President
Norm Blakeley
Kenn Carpenter
Kelly Cooper
Willy Dunne
Paul Fischer
Brent Hibbert
Hal Smalley

Tuesday, June 18, 2019

6:00 PM

Betty J. Glick Assembly Chambers

CALL TO ORDER

PLEDGE OF ALLEGIANCE

INVOCATION

[Clerk's Note: The invocation was given by Iris Fontana.]

ROLL CALL

Present: 9 - Paul Fischer, Dale Bagley, Brent Hibbert, Kenn Carpenter, Norm Blakeley, Kelly Cooper, Hal Smalley, Wayne Ogle, and Willy Dunne

Also present were:

Charlie Pierce, Borough Mayor

James Baisden, Chief of Staff

Colette Thompson, Borough Attorney

Johni Blankenship, Borough Clerk

Michele Turner, Deputy Borough Clerk

COMMITTEE REPORTS

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

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

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

Assembly Member Dunne stated the Legislative Committee met and discussed its

agenda item.

APPROVAL OF AGENDA AND CONSENT AGENDA

KPB-2202 June 4, 2019 Regular Assembly Meeting Minutes

approved

KPB-2187 A Resolution Commending South Peninsula Behavioral Health Services (Cooper)

This Commending Resolution was adopted.

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

2018-19-38 An Ordinance Appropriating \$300,000 from the School Fund to the School Capital Project Fund to Provide Funding for Portable Relocation (Mayor)

This Budget Ordinance was enacted.

2019-19-01 An Ordinance Appropriating \$106,674 to the Special Assessment Fund for the Rustic Avenue Road Improvement Special Assessment District (Mayor)

This Budget Ordinance was enacted.

2019-12 An Ordinance Authorizing the Sale of Certain Real Property Obtained by the Kenai Peninsula Borough Through Tax Foreclosure Proceedings which was Previously Retained for a Public Purpose (Mayor)

[Clerk's Note: The final Whereas clause of Ordinance 2019-12 was amended to read, "the Planning Commission conducted a public hearing on June 10, 2019, and recommended approval by unanimous consent."]

This Ordinance was enacted as amended.

2019-13 An Ordinance Authorizing Retention or Sale of Certain Real Property Obtained by the Kenai Peninsula Borough Through Tax Foreclosure Proceedings (Mayor)

[Clerk's Note: The final Whereas clause of Ordinance 2019-13 was amended to read, "the Planning Commission conducted a public hearing on June 10, 2019, and recommended approval by unanimous consent."]

This Ordinance was enacted as amended.

New Business

2019-036 A Resolution to Form the Rustic Avenue Road Improvement Assessment District (RIAD) and Proceed with the Improvement (Mayor)

This Resolution was adopted.

2019-039 A Resolution Authorizing Changing the Assistant Borough Attorney Position to a Deputy Borough Attorney Position (Mayor)

This Resolution was adopted.

2019-19-02 An Ordinance Appropriating \$50,000 in Interest Income from the Spruce Bark Beetle Program to Supplement the Community Wildfire Protection Plans Update Project (Mayor)

This Budget Ordinance was introduced and set for public hearing.

2019-19-03 An Ordinance Appropriating Funds to Remodel Existing Facilities at Kenai Central High School and Kenai Middle School to Accommodate Intensive Needs Programs to be Moved from the Former Soldotna Prep School to Those Facilities (Mayor)

This Budget Ordinance was introduced and set for public hearing.

2019-19-04 An Ordinance Appropriating Funds for Utilities, Maintenance and Insurance of the Soldotna Prep School Surplus Property for Fiscal Year 2020 (Mayor)

This Budget Ordinance was introduced and set for public hearing.

KPB-2197 Approving a Letter of Non-Objection to the Issuance of the New Liquor License as Requested by Alaska Fine Wines; License No. 5800

approved

KPB-2199 Petition to Vacate a Section Line Easement and Right-of-Way Including the Associated Utility Easement as Follows:

- a. Vacate a 13 Foot by 54.88 Foot Portion of the Section Line Easement within Lot 1C Block 3 Pilot's Bend Replat (KN 2008-055)
- b. Vacate the Westerly 23 Feet by the Southerly Approximately 285 Feet of the Glenmore Circle Right-of-way as Dedicated on Pilot's Bend Subdivision Part Three, Play KN 86-71

The Section Line Easement and Right-of-Way Proposed to be Vacated are Undeveloped and Located within the SE ¼ of Section 21,

Township 5 South, Range 9 West, Seward Meridian, Kenai Peninsula Borough, Alaska; KPB File No. 2019-056V

[Clerk's Note: The Planning Commission approved the above referenced petition to vacate at its May 28, 2019 meeting by unanimous consent.]

approved

Approval of the Agenda and Consent Agenda

President Ogle called for public comment with none being offered.

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

Yes: 9 - Fischer, Bagley, Hibbert, Carpenter, Blakeley, Cooper, Smalley, Ogle, and Dunne

COMMENDING RESOLUTIONS AND PROCLAMATIONS

KPB-2187 A Resolution Commending South Peninsula Behavioral Health Services (Cooper)

[Clerk's Note: Assembly Member Cooper presented the commending resolution to Jay Cechtoll, CEO of South Peninsula Behavioral Health Services.]

PRESENTATIONS WITH PRIOR NOTICE

None.

PUBLIC COMMENTS ON ITEMS NOT APPEARING ON THE AGENDA

President Ogle called for public comment.

Michele Hartline, Nikiski read a prayer.

The following people spoke in opposition to moving the Mayor's Report on the agenda:

Diane McRae, Kasilof
Wilma Hampson, Nikiski

George Pierce, Kasilof spoke in opposition to moving the Mayor's Report on the agenda and the invocation policy.

Carrie Henson, Soldonta addressed the assembly regarding religion versus atheists.

Paul Huber, Nikiski addressed the assembly regarding the invocation policy and said a prayer.

Barret Fletcher, McNeil Canyon spoke in opposition to the invocation policy.

Greg Anderson, Kenai addressed the Assembly regarding the settlement funding of the *Brown v. KPB* wrongful termination case.

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

KPB-2200 South Peninsula Hospital Quarterly Report (10 Minutes)

[Clerk's Note: Noel Rea, Interim CEO and Jim Basch, CFO of South Peninsula Hospital presented a quarterly report to the assembly.]

KPB-2201 Material Site Work Group Presentation, Robert Ruffner, Chair (10 Minutes)

[Clerk's Note: Robert Ruffner, Chair of the Material Site Work Group provided the assembly with an overview of the work group's discussions and recommendations.]

ITEMS NOT COMPLETED FROM PRIOR AGENDA

None.

PUBLIC HEARINGS ON ORDINANCES

2019-09 An Ordinance Amending the Borough's Sales Tax Code to Levy a 12 Percent Tax on Temporary Lodging, Exempt Temporary Lodging Rentals from the General Sales Tax, and Allow Cities that Levy a Similar Sales Tax on Temporary Lodging to Exempt up to One-Half of the Borough Temporary Lodging Tax, Subject to Voter Approval (Bagley)

[Clerk's Note: The motion to enact was on the floor from the June 4, 2019 meeting.]

[Clerk's Note: Assembly Member Cooper abstained from voting on Ordinance 2019-09, as it was ruled she had a conflict at the May 21, 2019 meeting.]

President Ogle called for public comment from the Homer teleconference site:

The following people spoke in support of Ordinance 2019-09:

Andy Haas, Homer

Dave Lyon, Homer

The following people spoke in opposition to Ordinance 2019-09:

Shelly Erickson, Homer
Paul Hueper, Homer
Juxia Scarpitta, Homer

There being no one else who wished to speak the teleconference site in Homer was closed.

President Ogle called for public comment from the Assembly Chambers.

The following people spoke in opposition to Ordinance 2019-09:

Sharon Brower
Anna Rodriguez-Sanson, Homer
Marcia Kuzmaul, Homer
Debbie Speakman, Homer
David Story, Cooper Landing
Joe Connors, Sterling
John Faulkner, Homer
Wilma Hampson, Nikiski
Steve Anderson, Soldotna
Merle Waggoner, Sterling
Laura McGinnis, Ninilchik [*Clerk's Note: Ms. McGinnis also read a statement from Blair Martin in opposition to Ordinance 2019-09.*]
Shirley Wilma, Cooper Landing
Ron Welbacher, Kenai
Michele Hartline, Nikiski

The following people spoke in support of Ordinance 2019-09:

George Pierce, Kasilof
Don St. John, Kenai

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

Bagley moved to amend Ordinance 2019-09 as follows:

Amend the title to read, "AN ORDINANCE AMENDING THE BOROUGH'S SALES TAX CODE TO LEVY A 12 PERCENT TAX ON RENTALS OF TEMPORARY LODGING AND OVERNIGHT CAMPING FACILITIES, EXEMPT [TEMPORARY LODGING] THESE RENTALS FROM THE GENERAL SALES TAX, AND ALLOW CITIES THAT LEVY A SIMILAR

SALES TAX ON [TEMPORARY LODGING] THESE RENTALS TO EXEMPT UP TO ONE-HALF OF THE BOROUGH'S [TEMPORARY LODGING] TAX ON THESE RENTALS, SUBJECT TO VOTER APPROVAL"; and

Amend the seventh Whereas clause to read, "while the revenue to the borough generated from this additional sales tax on temporary lodging and overnight camping facilities would be used solely for educational purposes, it would also make other borough revenues available to offset these visitor costs and help maintain the fund balance; and"; and

Amend the ninth Whereas clause to read, "to clarify [THAT THIS TAX DOES NOT APPLY TO THE RENTAL OF SPACES FOR MOTOR HOMES, TENTS, AND OTHER SIMILAR TEMPORARY SHELTERS NOT PROVIDED BY THE SELLER, AND] what is considered temporary lodging, the definition of "temporary lodging" is amended; and"; and

Amend Section 1 to read, "5.18.100. General-Levied-Amount.

- A. There is levied by the borough a consumer's sales tax of up to 3 percent maximum rate on all retail sales, on all rents, and on all services made or rendered within the borough, measured by the gross sales price of the seller.
- B. In addition to the tax levied in paragraph A of this section, there is levied in the borough a sales tax on the rental of temporary lodging and overnight camping facilities of up to 12 percent of the rental price of all such rentals within the borough, except as specifically exempted herein.

In addition to the sales taxes levied by the borough, any municipality within the borough may levy a consumer's sales tax and a temporary lodging and overnight camping facilities tax that may be included in their general sales tax, taxed separately, or both, as provided by Alaska Statute which shall be reported, collected, and enforced according to the terms of this chapter."; and

Amend Section 2 to read, "That KPB 5.18.200(A) is amended by amending paragraph 22, as follows:

5.18.200. Exemptions/waivers-Exemptions.

- A. The following classes of retail sales, services and rentals are exempt:

...

22. The rental of temporary lodging and overnight camping and shall be exempt from the borough general sales tax levied pursuant to KPB 5.18.100(A)."; and

Amend Section 3 to read, "5.18.215. Exemptions/waivers-Temporary lodging within

cities in the borough.

Rentals of temporary lodging and overnight camping facilities within any city in the borough are exempt from the borough's temporary lodging room tax in an amount equal to a similar temporary lodging and overnight camping facilities tax that is either levied separately from or included in the city's general sales tax, or both, with a maximum total exemption of one-half of the borough's temporary lodging tax."; and

Amend Section 4 to read, "5.18.900. Definitions.

When not clearly otherwise indicated by the context, the following words and phrases, as used in this chapter, have the following meanings:

...

"Overnight camping facilities" means places used for temporary overnight stays including campgrounds and places providing spaces for recreational vehicles, caravans, trailers, other vehicles, tents, or other items used for overnight shelter.

"Temporary lodging" [IS DEFINED AS] means a service to provide any structure or portion of a structure, permanent or temporary, fixed or mobile, in which a person, for money or other consideration, may obtain lodging, dwelling, or sleeping accommodations for less than one month. This term includes hotels, apartment hotels, motels, tourist homes, houses or courts, lodging houses, inns, rooming houses, hostels, trailers, bed and breakfasts, dormitories except as excluded below, and any other facility, structure, or room of whatever name where space for lodging, dwelling, or sleeping may be secured for consideration. "Room" excludes any self-contained and powered motor home or tent not provided by the seller, tent or tent space, hospital, medical clinic, sanitarium, or nursing home; or any student dormitory operated by a non-profit or public educational entity."; and

Amend Section 5 to read, "That a ballot proposition shall be placed before borough voters at the regular election on October 1, 2019 to read as follows:

Shall Ordinance 2019-09 be approved? Ordinance 2019-09 establishes a borough sales tax of up to 12 percent on temporary lodging and overnight camping facilities rentals, exempts [TEMPORARY LODGING] these rentals from the borough general sales tax, and exempts the amount of any similar city [TEMPORARY LODGING] tax up to one-half of the borough's [TEMPORARY LODGING] tax. "Temporary lodging" includes a service to provide lodging as described in the ordinance of less than one month for money or other consideration". "Overnight camping facilities" means "places used for temporary overnight stays including campgrounds and places providing spaces for recreational vehicles, caravans, trailers, other vehicles, tents, or other items used for overnight shelter."

Yes ____ A “yes” vote means you approve of a borough tax on rentals of temporary lodging and overnight camping facilities [TAX] of up to 12 percent instead of the general sales tax on these rentals [TEMPORARY LODGING], with an exemption for any similar tax [ON TEMPORARY LODGING TAX] levied by a city [ON THE LODGING]. This exemption in cities cannot exceed one-half of the borough’s [TEMPORARY LODGING] tax on these rentals.

No ____ A “no” vote means you oppose a borough tax on rentals of temporary lodging and overnight camping facilities [TAX] of up to 12 percent instead of the existing general sales tax on these rentals [TEMPORARY LODGING], with an exemption for any similar tax [ON TEMPORARY LODGING TAX] levied by a city [ON THE LODGING]. This exemption in cities cannot exceed one-half of the borough’s temporary lodging tax on these rentals."

The motion to amend Ordinance 2019-09 carried by the following vote:

Yes: 8 - Fischer, Bagley, Hibbert, Carpenter, Blakeley, Smalley, Ogle, and Dunne

Abstain: 1 - Cooper

Bagley moved to amend Ordinance 2019-09 as follows:

Amend the seventh Whereas clause to read, "while the revenue to the borough generated from this additional sales tax on temporary lodging [WOULD] may be used solely for educational purposes, it may be used for other borough purposes and would also make other borough revenues available to offset these visitor costs and help maintain the fund balance; and"; and

Amend Section 5 to read, "That a ballot proposition shall be placed before borough voters at the regular election on October 1, 2019 to read as follows:

Shall Ordinance 2019-09 be approved? Ordinance 2019-09 establishes a borough sales tax of up to 12 percent on temporary lodging, exempts temporary lodging from the borough general sales tax, and exempts the amount of any city temporary lodging tax up to one-half of the borough’s temporary lodging tax. “Temporary lodging” includes a service to provide lodging as described in the ordinance of less than one month for money or other consideration”. Revenues raised from this tax may be used for education and/or other borough purposes.

Yes ____ A “yes” vote means you approve of a borough temporary lodging tax of up to 12 percent instead of the general sales tax on temporary lodging, with an exemption for any similar tax on temporary lodging tax levied by a city on the lodging. This exemption in cities cannot exceed one-half of the borough’s temporary lodging tax. Revenues raised from this borough tax may be used for education and/or other borough purposes.

No ____ A “no” vote means you oppose a borough temporary lodging tax of up to 12 percent instead of the existing general sales tax on temporary lodging, with an exemption for any similar tax on temporary lodging tax levied by a city on the lodging. This exemption in cities cannot exceed one-half of the borough’s temporary lodging tax. Revenues raised from this borough tax may be used for education and/or other borough purposes.”

Assembly Member Fischer spoke in opposition to the Bagley amendment.

The motion to amend Ordinance 2019-09 failed by the following vote:

Yes: 3 - Bagley, Ogle, and Dunne

No: 5 - Fischer, Hibbert, Carpenter, Blakeley, and Smalley

Abstain: 1 - Cooper

Bagley moved to amend Ordinance 2019-09 to as follows:

Amend Section 5 to read, "That a ballot proposition shall be placed before borough voters at the regular election on October 1, 2019 to read as follows:

Shall Ordinance 2019-09 be approved? Ordinance 2019-09 establishes a borough sales tax of up to 12 percent on temporary lodging[,] and exempts temporary lodging from the borough general sales tax[.]. It also [AND] exempts the amount of any similar city tax up to one-half of the borough’s tax. “Temporary lodging” includes a service to provide lodging as described in the ordinance of less than one month for money or other consideration”.

Yes ____ A “yes” vote means you approve of a borough temporary lodging tax of up to 12 percent instead of the general sales tax on temporary lodging[.], WITH AN This would also exempt[ION] FOR any similar tax on temporary lodging [TAX] levied by a city [ON THE LODGING]. This exemption in cities cannot exceed one-half of the borough’s tax on these rentals.

No ____ A “no” vote means you oppose a borough temporary lodging tax of up to 12 percent instead of the general sales tax on temporary lodging[.], WITH AN This would also exempt[ION] FOR any similar tax on temporary lodging [TAX] levied by a city [ON THE LODGING]. This exemption in cities cannot exceed one-half of the borough’s tax on these rentals.”

The motion to amend Ordinance 2019-09 carried by the following vote:

Yes: 8 - Fischer, Bagley, Hibbert, Carpenter, Blakeley, Smalley, Ogle, and Dunne

Abstain: 1 - Cooper

Dunne moved to amend Ordinance 2019-09 as follows:

Amend the tenth Whereas clause to read, "a temporary lodging tax of [12]10 percent is estimated to generate approximately \$[1,100,000]825,000 in additional revenues in FY2020 and \$[4,400,000]3,300,000 in FY2021 and FY2022; and"; and

Amend the eleventh Whereas clause to read, "to enable the cities to levy a similar tax and allow the tax to apply evenly throughout the borough, the ordinance exempts from the borough's [12]10 percent temporary lodging tax an amount equal to a similar city tax of up to one-half of the borough's temporary lodging tax; and"

Assembly Member Bagley spoke in support of the Dunne amendment.

The motion to amend Ordinance 2019-09 carried by the following vote:

Yes: 8 - Fischer, Bagley, Hibbert, Carpenter, Blakeley, Smalley, Ogle, and Dunne

Abstain: 1 - Cooper

The motion to enact Ordinance 2019-09 as amended carried by the following vote:

Yes: 5 - Fischer, Bagley, Hibbert, Smalley, and Dunne

No: 3 - Carpenter, Blakeley, and Ogle

Abstain: 1 - Cooper

UNFINISHED BUSINESS

None.

NEW BUSINESS

Resolutions

2019-038 A Resolution Urging the U.S. Army Corps of Engineers to Consider the Economic Impacts to the Bear Viewing Industry in the Pebble Mine Environmental Impact Statement (Dunne)

Dunne moved to adopt Resolution 2019-038.

President Ogle called for public comment.

Jill Schaefer, Pebble Mine representative spoke in opposition to Resolution 2019-038.

The following people spoke in support of Resolution 2019-038:

Marcia Kuszmaul, Homer

Anna Rodriguez-Sanson, Homer

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

closed.

Assembly Member Smalley spoke in support of Resolution 2019-038.

Assembly Members Bagley and Blakeley spoke in opposition to Resolution 2019-038.

President Ogle passed the gavel to Vice President Bagley and spoke in opposition to Resolution 2019-038. Vice President Bagley returned the gavel to President Ogle.

The motion to adopt Resolution 2019-038 failed by the following vote:

Yes: 3 - Cooper, Smalley, and Dunne

No: 6 - Fischer, Bagley, Hibbert, Carpenter, Blakeley, and Ogle

Other

KPB-2204 Mayor's Line Item Veto Ordinance 2019-19 Kenai Peninsula Tourism and Marketing Council Funding
[Clerk's Note: 6 Yes votes are required to override a veto by the mayor.]

Bagley moved to override the Mayor's line item veto of Ordinance 2019-19 Kenai Peninsula Tourism and Marketing Council funding.

President Ogle called for public comment.

The following people spoke in opposition to overriding the Mayor's Veto:

Duane Bannock, Kenai

John Faulkner, Homer

The following people spoke in support of overriding the Mayor's Veto:

Pamela Parker, Soldotna

Dennis Meadows, Soldotna

Shirley Wilma, Cooper Landing

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

Assembly Members Smalley, Cooper and Dunne spoke in support of overriding the Mayor's Veto.

Assembly Member Blakeley spoke in opposition to overriding the Mayor's Veto.

The motion to override the Mayor's line item veto of Ordinance 2019-19 Kenai Peninsula

Tourism and Marketing Council funding failed by the following vote:

Yes: 5 - Bagley, Hibbert, Cooper, Smalley, and Dunne

No: 4 - Fischer, Carpenter, Blakeley, and Ogle

PUBLIC COMMENTS AND PUBLIC PRESENTATIONS

President Ogle called for public comments.

Carrie Henson, Soldotna continued her comments regarding religion versus athiests.

Pamela Parker, Soldotna spoke in opposition to the borough's decision to not fund Kenai Peninsula Tourism and Marketing Council for FY20.

Shirley Wilma, Cooper Landing addressed the assembly regarding bed tax and tourism in the borough.

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

MAYOR'S REPORT

1. Assembly Requests/Responses - None.
2. Agreements and Contracts
 - a. KPB-2189 Authorization to Award a Contract for RFP19-007 Janitorial Services - Maintenance, Purchasing, Roads, and Solid Waste Facility to Kim's Janitorial, Soldotna, AK
3. Other
 - a. KPB-2190 Certification for the 2019 Main Roll Assessment
 - b. KPB-2191 Revenue-Expenditure Report - May 2019
 - c. KPB-2192 Budget Revisions - May 2019

ASSEMBLY COMMENTS

Assembly Member Dunne reminded everyone of the Seldovia Summer Solstice Music Festival June 20 - 23, 2019.

Assembly Member Smalley thanked Holly Montague, Deputy Borough Attorney for her service. He stated there was good public testimony.

Assembly Member Hibbert wished everyone a good summer.

Assembly Member Carpenter invited everyone to Seward to go fishing.

President Ogle thanked everyone for their testimony, both in Homer and in Soldotna.

INFORMATIONAL MATERIALS AND REPORTS

ASSEMBLY MEETING AND HEARING ANNOUNCEMENTS

1. June 28, 2019, 10:00 AM Election Stakeholders Group
Betty J. Glick Assembly Chambers
Soldotna, Alaska
2. July 2, 2019 6:00 PM Regular Assembly Meeting
Betty J. Glick Assembly Chambers
Soldotna, Alaska

ADJOURNMENT

With no further business to come before the assembly, President Ogle adjourned the meeting at 9:58 p.m.

I certify the above represents accurate minutes of the Kenai Peninsula Borough Assembly meeting of June 18, 2019.


John Blankenship, MMC, Borough Clerk

Approved by the Assembly: 7-2-19

