

Kenai Peninsula Borough
Office of the Borough Clerk

MEMORANDUM

TO: Wayne Ogle, Assembly President
Kenai Peninsula Borough Assembly Members

THRU: Johni Blankenship, Borough Clerk (B) (W.)

FROM: Michele Turner, Deputy Borough Clerk (M.T.)

DATE: November 20, 2018

RE: Ordinance 2018-34: Authorizing a Subsurface Oil and Gas Lease to Hilcorp Alaska, LLC at 12.5 Percent Royalty Under Five Parcels of Land Near Anchor Point, containing a Total of 19.1 Acres More or Less (Mayor)


The Planning Commission has addressed the referenced ordinance. Please amend the last Whereas clauses to read:


"WHEREAS, the Kenai Peninsula Borough Planning Commission, at its regular meeting of November 13, 2018, recommended approval by majority consent;"

Thank you.

MEMORANDUM

TO: Wayne Ogle, Assembly President
Kenai Peninsula Borough Assembly Members

THRU: Charlie Pierce, Mayor 

FROM: Max Best, Planning Director 

DATE: November 14, 2018

RE: Ordinance 2018-34; Authorizing a Subsurface Oil and Gas Lease to Hilcorp Alaska, LLC at 12.5 Percent Royalty Under Five Parcels of Land Near Anchor Point, Containing a Total of 19.1 Acres, More or Less (Mayor)

The Kenai Peninsula Borough Planning Commission reviewed the subject ordinance during their regularly scheduled November 13, 2018 meeting.

A motion passed by majority vote (*Bentz, Yes; Carluccio, Yes; Ecklund, Yes; Ernst, No; Fikes, Yes; Foster, Absent; Martin, Absent; Morgan, Yes; Ruffner, Absent; Venuti, No; Whitney, No*) to recommend approval of Ordinance 2018-34, authorizing a subsurface oil and gas lease to Hilcorp Alaska, LLC at 12.5 percent royalty under five parcels of land near Anchor Point, containing a total of 19.1 acres, more or less.

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

AGENDA ITEM F. PUBLIC HEARINGS

3. Ordinance 2018-34, Authorizing a Subsurface Oil and Gas Lease to Hilcorp Alaska, LLC at 12.5 Percent Royalty Under Five Parcels of Land Near Anchor Point, Containing a Total of 19.1 Acres, More or Less

Staff Report Given by Marcus Mueller

The Borough has mineral rights in addition to the surface rights on five parcels of land in Anchor Point. Hilcorp is working on a project with a drill pad called Seaview that is currently under drilling operations. Their primary lease base for the project is from a State Oil and Gas Lease. There are also a lot of smaller private oil and gas interests in the area that they have been acquiring. These borough units are just small pieces in their larger puzzle. KPB 17.10.100(J), which is the Borough's Oil and Gas Leasing code, allows for oil and gas leases at the prevailing state royalty rate. The rate is 12.5 percent without deductions. There is a revised lease to go before the Assembly that updates the deduction language to match the state's no deductions rate standard. The oil and gas lease allowed by code does not allow for surface uses. This is an oil and gas lease less any surface uses. If there was any surface uses to be authorized it would require a separate instrument but there are currently none proposed. Within this group of properties two small parcels were purchased by the Anchor Point Fire Department. The oil and gas revenues that come from this lease will have a share of 9.75 percent to be allocated to the Fire Department. This was calculated by the amount of acreage they own versus the total acreage.

The Anchor Point Advisory Planning Commission held a meeting on November 7, 2018. At that meeting Hilcorp had five representatives that opened the meeting with a presentation. There were 50 or more attendees and a wide variety of questions were asked and answered. The drilling information provided showed the current project does not have the reach to get into the oil and gas reserves, if there are any, on these parcels from the current rig on the existing pad. This lease is not affected by the current drilling program. Hilcorp described this lease at the Anchor Point meeting as looking into the future for Hilcorp programs. It depends on if their exploratory wells become productive and if they can learn more about any oil and gas reserves that might be in the area through exploration. As seen in the Anchor Point Advisory Planning Commission minutes there were questions that came up when discussing the lease. One question that stands out is what happens if the Borough does not enter into a lease. Any money or revenue generated would go into an escrow account and be held by the State under State laws. Also, if the lease agreement is not made Hilcorp cannot be prevented from continuing their drilling program.

END OF STAFF REPORT

Chair Pro Tem Carluccio opened the meeting for public comment, seeing and hearing no one the Chair Pro Tem closed public hearing and opened discussion among the Commission.

MOTION: Commissioner Ecklund moved, seconded by Commissioner Whitney for the approval of Ordinance 2018-34 authorizing a subsurface oil and gas lease to Hilcorp Alaska, LLC at 12.5 percent royalty.

Commissioner Bentz wanted to know about the lease price calculation and how ten dollars, as shown on page 60 of the meeting packet, was determined. Mr. Mueller explained that in the grant language for instruments like leases or deeds it is very common to see the general phrase, "for in consideration of the sum of ten dollars." The amount may vary and sometimes may even be one dollar. All contracts require consideration to be made and this statement shows that consideration has been made but it is masking real values. This often shows up on deeds for property. Even with a six figure purchase price the deed might read similar to the lease and show a small value amount.

Commission Whitney wanted to know if the 12.5 percent was high, low or an average and how that number was determined. Mr. Mueller stated that the State's ranges were reviewed. On the North Slope the State gets 16 and 2/3 percent royalty. The Cook Inlet rate is 12.5 percent. That is looking across the data points

for leases and talking to Marta Mueller who is the State Oil and Gas Leasing specialist for the State. The 12.5 is the rate used in the Cook Inlet Basin.

Commissioner Venuti referring to the map on page 74 of the meeting packet noted that the areas for the lease were highlighted in yellow. The biggest parcel is across the highway from the Anchor River Inn and right next to an elementary school. He wanted to know if this was going to be directional drilling and if a rig would be placed next to the school. Mr. Mueller stated that Hilcorp did not disclose where another drill pad might be placed. They are also not far enough along to determine if there would be another drilling program that would extend to these parcels. This is going to be directional drilling. Hilcorp's description of the current operation is that the rig has a 15,000-foot reach and a depth is 10,000 feet. That gives them a little over a half a mile of directional reach. The location for another rig has not been given. Commission Venuti asked if there was a guarantee that a rig would not be placed next to the school. Mr. Mueller clarified that this oil and gas lease would not provide for a rig to be placed on the property. Another surface owner could negotiate with Hilcorp to provide a location.

Commissioner Bentz wanted to clarify that there would be no surface use included with this application. Geophysical exploratory work was mentioned and this is generally done from the surface. She wanted to know how the geophysical exploratory work would be performed if there are no surface uses allowed. Mr. Mueller confirmed that through this lease there would be no surface use. The Borough routinely works with oil and gas companies to do seismic type work on Borough lands. That is usually done through a land use permit since they are fairly non-obtrusive. This lease would not provide for the geophysical exploratory work.

Commissioner Bentz said that with looking at the Anchor Point Advisory Planning minutes what the response was from the applicant from the Anchor Point residents voicing concerns about environmental quality and the health and wellbeing for the residents. Mr. Mueller stated that there was a variety of questions asked that were consistent with the written materials provided in the desk packet. Sue Mauger asked if Hilcorp would share their contingency plans with the community. Hilcorp responded that they would be willing and there was indication that Hilcorp would coordinate with a point of contact. They would provide contingency plans and that would include their environmental procedures in the event of an issue.

Chair Pro Tem Carluccio understands the ten dollars listed in the standard clause but wanted to know if the "other valuable considerations" are referring to the 12.5 percent royalty or if there was anything additional. Mr. Mueller answered that it is primarily the 12.5 percent royalty but there is a bonus that is not within the document and that is twenty-five dollars an acre. That will total about five hundred dollars. Chair Pro Tem Carluccio wanted to know if that money would still be received if there is no drilling or if no oil and gas is discovered. Mr. Mueller answered that the money would still be received. Chair Pro Tem Carluccio wanted to know how many leases Hilcorp holds on other properties. Mr. Mueller stated that at the Anchor Point Advisory Planning Commission meeting Hilcorp indicated they have secured about 200 leases in the area.

MOTION PASSED BY MAJORITY VOTE: 5 Yes, 3 No, 3 Absent

Yes: Bentz, Carluccio, Ecklund, Fikes, Morgan
No: Ernst, Venuti, Whitney
Absent: Foster, Martin, Ruffner