



Kenai Peninsula Borough

144 North Binkley Street
Soldotna, AK 99669

Meeting Minutes - Final

Assembly

Brent Johnson, President

Tyson Cox, Vice President

Kelly Cooper

Cindy Ecklund

Bill Elam

Brent Hibbert

Peter Ribbens

Ryan Tunseth

Mike Tupper

Tuesday, October 10, 2023

6:00 PM

Betty J. Glick Assembly Chambers

Meeting ID: 884 7373 9641 Passcode: 671108

[https://us06web.zoom.us/j/88473739641?](https://us06web.zoom.us/j/88473739641?pwd=dW1sY2RYV0F4dURjV25yVW9WUGw3QT09)

[pwd=dW1sY2RYV0F4dURjV25yVW9WUGw3QT09](https://us06web.zoom.us/j/88473739641?pwd=dW1sY2RYV0F4dURjV25yVW9WUGw3QT09)

Meeting ID: 884 7373 9641 Passcode: 671108

CALL TO ORDER

PLEDGE OF ALLEGIANCE

INVOCATION

[Clerk's Note: The invocation was given by Lane Chesley.]

ROLL CALL

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

Also present were:

Peter A. Micciche, Borough Mayor

Brandi Harbaugh, Finance Director

Sean Kelley, Borough Attorney

Michele Turner, Borough Clerk

Tamera Ward, Deputy Borough Clerk

COMMITTEE REPORTS

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

[8 Present: Cox, Chesley, Derkevorkian, Ecklund (Via Zoom), Hibbert, Ribbens, Tupper (Via Zoom), Johnson / 1 Excused Absence: Elam]

Assembly Member Derkevorkian stated the Lands Committee met and discussed its

agenda items.

[8 Present: Cox, Chesley, Derkevorkian, Ecklund (Via Zoom), Hibbert, Ribbens, Tupper (Via Zoom), Johnson / 1 Excused Absence: Elam]

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

[8 Present: Cox, Chesley, Derkevorkian, Ecklund (Via Zoom), Hibbert, Ribbens, Tupper (Via Zoom), Johnson / 1 Excused Absence: Elam]

APPROVAL OF AGENDA AND CONSENT AGENDA

Cox moved to approve the Agenda and the Consent Agenda.

Copies have been made available to the public, Borough Clerk Michele Turner noted by title the items on the consent agenda.

[KPB-5529](#) September 19, 2023 Regular Assembly Meeting Minutes
approved.

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

[2023-19-17](#) An Ordinance Accepting and Appropriating an Additional \$5,525.20 from the State of Alaska Department of Military and Veterans Affairs, Division of Homeland Security and Emergency Management for Statewide Exercise Planning (Mayor)
This Budget Ordinance was enacted.

[2023-19-18](#) An Ordinance Appropriating \$25,000 from the Western Emergency Service Area Operating Fund to Complete Installation of Mobile Radios, Station Consolettes and Repeater (Mayor) (Hearing on 10/10/23)
This Budget Ordinance was enacted.

[2023-19-19](#) An Ordinance Appropriating Funds to the Legal Department for Litigation Fees and Costs Related to an Oil and Gas Property Tax Appeal (Mayor)
This Budget Ordinance was enacted.

[2023-19-20](#) An Ordinance Appropriating \$250,273 from the Roads Service Area Fund Balance to Replenish Road Maintenance Funding for the Remainder of the Fiscal Year (Mayor)

This Budget Ordinance was enacted.

[2023-22](#)

An Ordinance Authorizing the Assessor to Accept One Late-Filed Community Purpose Exemption Application for 2023 and Providing an Exception to KPB 5.12.040(B) (Mayor)

This Ordinance was enacted.

NEW BUSINESS

[2023-062](#)

A Resolution Designating the Investment and Allocation Plan for the Borough's Land Trust Investment Fund and Establishing Appropriate Benchmarks to Measure Performance as of November 1, 2023 and for Calendar Year 2024 (Mayor)

This Resolution was adopted.

[2023-063](#)

A Resolution Approving an Increase to the Limitation on the Total Cumulative Annual Cost of Real Property Leases in Which CPGH, Inc. is the Sole Lessee and Authorizing an Amendment to the Operating Agreement (Mayor)

This Resolution was adopted.

[2023-064](#)

A Resolution Certifying the Results of the October 3, 2023 Regular Election (Johnson at the Request of the Borough Clerk)

This Resolution was adopted.

[2023-065](#)

Requesting the Department of Transportation and Public Facilities Cease Use of Salt Brine on Kenai Peninsula Roadways for Purposes of Road Surface Snow and Ice Control (Mayor)

This Resolution was adopted.

[2023-19-21](#)

An Ordinance Accepting and Appropriating Pass-Through Grant Funds from the State of Alaska Office of Emergency Medical Services in the Amount of \$250,000 through the Healthy and Equitable Communities Program Grant for the Nikiski Fire Mobile Integrated Healthcare Program (Mayor)

This Budget Ordinance was introduced and set for public hearing.

[2023-19-22](#)

An Ordinance Appropriating Supplemental Funding of \$50,000 to Complete the Uninterrupted Power Supply Replacement Project Located in the Emergency Response Center (Mayor)

This Budget Ordinance was introduced and set for public hearing.

- [2023-24](#) An Ordinance Approving the Capital Lease Purchase of the Stryker Mako SmartRobotics System for South Peninsula Hospital (Mayor)
This Budget Ordinance was introduced and set for public hearing.
- [KPB-5555](#) Authorizing the Issuance of a Letter of Non-Objection to the Alcoholic Beverage Control Board Regarding the Restaurant Designation Permit as Requested by The Angry Salmon, LLC dba The Angry Salmon, License No. 1309
approved.
- [KPB-5528](#) Confirming an Appointment to the Planning Commission – City of Seward Seat (Mayor)

Troy Staggs, City of Seward, Term Expires: July 31, 2026
approved.
- [KPB-5556](#) Confirming an Appointment to the Resilience and Security Advisory Commission (Mayor)

Michael Horton, At-Large Seat, Term Expires 09/20/2026
approved.

Approval of the Agenda and Consent Agenda

President Johnson 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 - Hibbert, Derkevorkian, Elam, Chesley, Ecklund, Tupper, Johnson, Cox, and Ribbens

VACANCY, DESIGNATION OR SEATING MEMBERS

1. Swear-in Newly Elected Assembly Members

[Clerk's Note: Borough Clerk Michele Turner administered oaths of office to the newly elected: Ryan Tunseth, District 2; Peter Ribbens, District 3; Bill Elam, District 5; Kelly Cooper, District 8; Peter Micciche, Borough Mayor.]

COMMENDING RESOLUTIONS AND PROCLAMATIONS

PRESENTATIONS WITH PRIOR NOTICE

1. [KPB-5530](#) Kenai Public Health Center, Department of Health, Julie Bunch (10 minutes)

[Clerk's Note: Julie Bunch, BSN RN, Public Health Nurse 2 of Kenai Public Health gave a presentation to the assembly.]

PUBLIC COMMENTS ON ITEMS NOT APPEARING ON THE AGENDA

President Johnson called for public comment.

Paul Shadura, spoke regarding holding the Board of Fisheries meeting on the peninsula.

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

MAYOR'S REPORT

Mayor's Report Cover Memo

[KPB-5541](#) Mayor's Report to the Assembly

1. Assembly Requests/Responses - None.
2. Agreements and Contracts
 - a. [KPB-5542](#) Authorization to Award a Contract for ITB23-016 Brushing Vegetation Control – North Region, Units 1, 2, 3, 4 & 5
 - b. [KPB-5543](#) Authorization to Award a Contract for ITB23-017 Brushing Vegetation Control – South Region, Units 3, 4 & 5
 - c. [KPB-5544](#) Authorization to Award a Contract for ITB23-017 Brushing Vegetation Control – South Region, Units 7 & 8
 - d. [KPB-5545](#) Authorization to Award a Contract for ITB23-018 Brushing Vegetation Control – East Region, Unit 3
 - e. [KPB-5546](#) Authorization to Award a Contract for ITB24-019 Brushing Vegetation Control – West Region, Units 2, 6 & 7
 - f. [KPB-5547](#) Authorization to Award a Contract for ITB24-019 Brushing Vegetation Control – West Region, Units 3, 4 & 5
 - g. [KPB-5548](#) Authorization to Award a Contract for ITB24-020 Brushing Vegetation Control – Central Region, Units 1, 2 & 10
 - h. [KPB-5549](#) Authorization to Award a Contract for ITB24-020 Brushing Vegetation Control – Central Region, Units 4 & 5

- i. [KPB-5550](#) Authorization to Award a Contract for ITB24-021 Summer & Winter Road Maintenance - East Region, Unit 4
- 3. Other
 - a. [KPB-5551](#) Budget Revisions - August 2023
 - b. [KPB-5552](#) Revenue-Expenditure Report - August 2023

PUBLIC HEARINGS ON ORDINANCES

[2023-20](#) An Ordinance Amending Borough Code KPB 19.30.070 to Update the Definition for Economic Development (Ecklund)

Chesley moved to enact Ordinance 2023-20.

President Johnson called for public comment with none being offered.

The motion to enact Ordinance 2023-20 carried by the following vote:

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

[2023-21](#) An Ordinance Amending Borough Code KPB 5.08.025 Regarding Loans from the Borough's General Fund to Borough Service Areas (Cox)

Chesley moved to enact Ordinance 2023-21.

President Johnson called for public comment with none being offered.

Cox moved to amend Ordinance 2023-21 as follows:

Delete the last sentence in Section 1, paragraph 6, "[IF THE ASSEMBLY DETERMINES THAT THE LOAN WILL REQUIRE AN INCREASE IN THE SERVICE AREA MILL LEVY FOR REPAYMENT PURPOSES, THE LOAN MUST FIRST BE APPROVED BY THE VOTERS OF THE SERVICE AREA AT A REGULAR OR SPECIAL ELECTION BEFORE ANY FUNDS CAN BE DISTRIBUTED.]"

The motion to amend Ordinance 2023-21 carried by the following vote:

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

The motion to enact Ordinance 2023-21 as amended carried by the following vote:

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

[2022-36](#) Ordinance 2022-36 (Johnson, Chesley) Substitute: Amending KPB Chapter 21.25 and KPB Chapter 21.29 Regarding Conditional Land

Use Permits and Material Site Permits, Updating Notice, Applicability, Permit Types, Application Requirements, Standards and Permits Conditions (Johnson, Chesley)

[Clerk's Note: The motion to enact Ordinance 2022-36 (Johnson, Chesley) Substitute was on the floor from the 09/06/2022 meeting.]

President Johnson called for public comment.

The following people addressed the assembly regarding Ordinance 2022-36 (Johnson, Chesley) Substitute:

Hans Bilben, Anchor Point

Mike Patrick

Ed Martin III, Kenai Peninsula Aggregate & Contractors Association

Robin Davis

Jeanie Bilben, Anchor Point

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

Cox moved to amend Ordinance 2022-36 (Johnson, Chesley) Substitute as follows:

Amend KPB 21.29.057(C) in Section 3 to read, "Conditions. In addition to the requirements of KPB 21.29.050, operating conditions for extraction within or below two feet of the seasonal high-water table are as follows ...

[5. A QUALIFIED PROFESSIONAL MUST ANNUALLY SUBMIT A REPORT TO THE DEPARTMENT THAT INCLUDES WATER TABLE ELEVATION MONITORING DATA.]

[6]5. Operations must not breach or extract material from a confined aquifer or a confining layer beneath a perched aquifer."

The motion to amend Ordinance 2022-36 (Johnson, Chesley) Substitute carried by the following vote:

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

Cox moved to amend Ordinance 2022-36 (Johnson, Chesley) Substitute as follows:

Amend KPB 21.29.065(B) in Section 3 to read, "Absent new evidence or a material change in circumstances that even with due diligence the applicant could not have presented with the original application, no reapplication concerning the same CLUP may be filed within [FIVE]three calendar years of the date of the final denial action."

The motion to amend Ordinance 2022-36 (Johnson, Chesley) Substitute carried by the following vote:

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

Cox moved to amend Ordinance 2022-36 (Johnson, Chesley) Substitute as follows:

Amend KPB 21.29.070(B) in Section 3 to read, “The planning director may administratively approve a renewal application that meets the following requirements: (i) the permittee is in compliance with all permit conditions and no modification to operations or conditions are proposed; and (ii) the borough did not issue a notice of violation under the permit during the [TWO] calendar year[S] preceding the renewal application. If the renewal application does not satisfy the foregoing requirements or if the planning director determines a review by the planning commission is warranted, then the planning commission will hear the renewal application.”

The motion to amend Ordinance 2022-36 (Johnson, Chesley) Substitute carried by the following vote:

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

Cox moved to amend Ordinance 2022-36 (Johnson, Chesley) Substitute as follows:

Amend KPB 21.29.100 in Section 3 to read, “ All permits, permit extensions, modified permits, prior existing uses, and terminations will be recorded. Failure to record as material site document does not affect the validity of the documents. The [OPERATOR OR OWNER OF THE MATERIAL SITE IS RESPONSIBLE FOR ALL ASSOCIATED] borough will use funds from the application fee to pay the permit recording fees.”

The motion to amend Ordinance 2022-36 (Johnson, Chesley) Substitute carried by the following vote:

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

Cox moved to amend Ordinance 2022-36 (Johnson, Chesley) Substitute as follows:

Amend KPB 21.29.120 in Section 3 to read, “A. Recognized status. A prior existing use (PEU) is a use that existed prior to May 21, 1996, and still in effect as of October 1, 2024. A PEU is recognized and is allowed to continue operation subject to the requirements of this section. A permitted material site is not considered a prior existing use. [PRIOR EXISTING USES (PEU) IN EFFECT ON OCTOBER 1, 2022 ARE ALLOWED TO CONTINUE OPERATION SUBJECT TO THE REQUIREMENTS OF THIS SECTION. [THE BURDEN OF PROOF THAT THE PRIOR EXISTING USE EXISTED BEFORE OCTOBER 1, 2023 AND AFTER MAY 21, 1996, IS ON THE APPLICANT.] [ALL [OTHER] PEUS PRIOR TO MAY 21, 1996 ARE [ALREADY RECORDED WITH THE BOROUGH AND ARE] RECOGNIZED. [IF THE PLANNING DIRECTOR DENIES PRIOR EXISTING USE STATUS, THE APPLICANT MUST COMPLY WITH THE PERMIT REQUIREMENTS OF THIS CHAPTER.

FAILURE TO APPLY FOR A PRIOR EXISTING USE DETERMINATION BY JANUARY 1, 2025 WILL RESULT IN SUSPENSION OF ALL RIGHTS TO CONTINUERS OPERATION AS A NONCONFORMING USE UNTIL 1) THE OPERATOR APPLIES FOR A PRIOR EXISTING USE DETERMINATION; 2) THE APPLICATION IS APPROVED; AND 3) THE OPERATOR DEMONSTRATES FULL COMPLIANCE WITH ALL PROVISIONS OF THIS CHAPTER RELATING TO PEUS. THE OPERATOR WILL HAVE ONE YEAR FROM THE DATE OF THE NOTICE OF THE PLANNING DIRECTOR'S REVIEW OF AN OPERATOR'S FIRE YEAR RENEWAL TO COME INTO FULL COMPLIANCE WITH THE PROVISIONS OF THIS CHAPTER, OTHERWISE THE SUSPENDED PEU PERMIT WILL BE TERMINATED.]

B. Classification. The planning department will review PEUs to determine the established use by classifying a PEU based upon the use types set forth in KPB 21.29.020, and provide a written description of the existing operations and classification determination. The PEU classification determination is only for the use that was established prior to October 1, 2024. The classification determination runs with the land and applies to the entire parcel or lot. The PEU classification determination must state whether or not the PEU is within the water table. The planning director's decision will also set forth the reclamation plan as required by subsection (D) below. The planning director's decision may be appealed by the applicant to the planning commission within 15 days of distribution of the decision. If a parcel is subdivided, the PEU may not be expanded to any lot, tract, or parcel where material extraction or processing had not previously occurred or was not lawfully established in accordance with this section. [[DECISION. THE PLANNING DIRECTOR WILL GIVE NOTICE OF THE APPLICATION FOR A PRIOR-EXISTING USE DETERMINATION TO PROPERTY OWNERS WITHIN 100 FEET OF THE SUBJECT PARCEL BOUNDARIES. THE NOTICE WILL INCLUDE A SUMMARY OF THE APPLICATION, A VICINITY MAP, AND A DEADLINE FOR SUBMITTING EVIDENCE REGARDING THE EXISTENCE OF THE USE PRIOR TO THE PLANNING DIRECTOR ISSUING A DECISION. THE PLANNING DIRECTOR WILL ISSUE A DECISION REGARDING THE PRIOR-EXISTING USE STATUS BASED ON THE WRITTEN APPLICATION OR EVIDENCE REGARDING THE EXISTENCE OF THE USE. BASED ON THAT INFORMATION, THE PLANNING DIRECTOR WILL CLASSIFY THE PEU BASED UPON THE USE TYPES SET FORTH IN KPB 21.29.020 AND WILL PROVIDE A WRITTEN DESCRIPTION OF THE EXISTING OPERATIONS. THE PLANNING DIRECTOR'S DECISION WILL ALSO SET FORTH THE RECLAMATION PLAN AS REQUIRED BY SUBSECTION (F) BELOW. THE PLANNING DIRECTOR'S DECISION MAY BE APPEALED BY THE APPLICANT OR AFFECTED PROPERTY OWNERS TO THE PLANNING COMMISSION WITHIN 15 DAYS-OF DISTRIBUTION OF THE DECISION.]

C. Discontinuance. Any PEU which has ceased by discontinuance for an

uninterrupted period of five years must thereafter conform to the permit requirements of this chapter. Lack of intent to cease use or abandon the use does not suspend the five-year time period. If a PEU is discontinued or abandoned, it may not be recommenced. Any activity such as extraction, excavation, processing, or reclamation is considered valid and a continuance of site use. The planning director will determine in writing whether a PEU has ceased by discontinuance. The planning director's decision may be appealed to the planning commission within 15 days of distribution of the decision

[D. *EXPANSION PROHIBITED.* A PRIOR-EXISTING USE MAY NOT BE INCREASED, INTENSIFIED, OR EXPANDED OR MOVED AFTER OCTOBER 1, 2023, NOR MAY THE PRIOR-EXISTING USE BE MOVED TO A PARCEL WHICH IS SUBJECT TO THIS CHAPTER. IF A PARCEL IS SUBDIVIDED, THE PRE-EXISTING USE MAY NOT BE EXPANDED TO ANY LOT, TRACT, OR PARCEL WHERE MATERIAL EXTRACTION OR PROCESSING HAD NOT PREVIOUSLY OCCURRED OR WAS NOT LAWFULLY ESTABLISHED IN ACCORDANCE WITH THIS SECTION. IF A PEU MATERIAL SITE HAS BEEN EXHAUSTED AS DETERMINED BY THE PLANNING DIRECTOR, IT CANNOT BE USED FOR EARTH MATERIALS PROCESSING WITHOUT A TYPE II ENDORSEMENT.]

D.[F.] In accordance with 21.29.015, on or before January 1, 2026, all legal PEU extraction operations must comply with KPB 21.29.060 (reclamation plan) and applicable hours of operation requirements under this chapter. The planning director may waive or modify any or all of the reclamation plan requirements set forth in KPB 21.29.060 as appropriate.

[G. MATERIALS EXTRACTION OPERATIONS WITH LEGAL PRIOR-EXISTING USE STATUS WHICH EXTRACT MATERIAL BELOW OR WITHIN TWO FEET OF THE SEASONAL HIGHWATER TABLE MUST CONDUCT OPERATIONS IN ACCORDANCE WITH THE REQUIREMENTS OUTLINED IN KPB 21.29.057, EXCEPT THAT KPB 21.29.057(C)(7) WILL NOT APPLY.]

[H. FOR THE PURPOSES OF THIS SECTION, "INCREASED, INTENSIFIED, OR EXPANDED" MEANS: (1) ENLARGING THE AREA OF EXCAVATION BEYOND THE CLASSIFICATION SET FORTH IN THE PLANNING DIRECTORS DECISION OR BEYOND THE WRITTEN DESCRIPTION OF EXISTING OPERATIONS AS SET FORTH BY THE PLANNING DIRECT UNDER SUBSECTION (B) ABOVE; (2) INCREASING THE DEPTH OF EXCAVATION TO GO WITHIN TWO FEET OF THE SEASONAL HIGH-WATER TABLE; OR (3) ADDING A USE THAT WAS NOT IN EXISTENCE AS OF THE DATE OF THE PEU STATUS DETERMINATION, TO INCLUDE ADDING EARTH MATERIALS PROCESSING TO A USE THAT DID NOT PREVIOUSLY INCLUDE PROCESSING.]"

The motion to amend Ordinance 2022-36 (Johnson, Chesley) Substitute carried by the following vote:

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

Cox moved to amend Ordinance 2022-36 (Johnson, Chesley) Substitute as follows:

Amend Section 4 to read, "That this ordinance [IS EFFECTIVE IMMEDIATELY UPON ENACTMENT] shall become effective on October 1, 2024."

The motion to amend Ordinance 2022-36 (Johnson, Chesley) Substitute carried by the following vote:

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

Derkevorkian moved to amend Ordinance 2022-36 (Johnson, Chesley) Substitute as follows:

Amend KPB 21.25.050(A) in Section 3 to read, "Within 30 days of receiving an application, the planning director or designee shall review the submitted application for completeness and compliance with this chapter. If it is incomplete or does not meet the requirements of this chapter, the planning director shall notify the applicant in writing. The planning director shall thereafter either return the application to the applicant or schedule the application to be considered by the planning commission at the next appropriate scheduled meeting. [UPON RECEIVING AN APPLICATION, THE PLANNING DIRECTOR OR DESIGNEE WILL FORWARD A COPY OF THE APPLICATION TO THE KACHEMAK BAY NATIONAL ESTUARINE RESEARCH RESERVE ("KBNERR") FOR REVIEW AND COMMENT. KBNERR WILL HAVE THIRTY DAYS TO PROVIDE ITS REVIEW AND COMMENT PRIOR TO SUBMISSION OF THE APPLICATION TO THE PLANNING COMMISSION IF THE APPLICATION IS OTHERWISE COMPLETE.]"

The motion to amend Ordinance 2022-36 (Johnson, Chesley) Substitute carried by the following vote:

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

Tupper moved to amend Ordinance 2022-36 (Johnson, Chesley) Substitute as follows:

Amend KPB 21.29.050(A)(2)(e) in Section 3 to read, "A. The planning commission or planning director, as applicable, must impose the following mandatory conditions prior to approval of a permit under this chapter:

...

2. Water source separation.

...

[e. ALL PERMITS MUST INCLUDE A CONDITION PROHIBITING

MATERIAL EXTRACTION INSIDE THE BOUNDARIES OF A MAPPED TSUNAMI HAZARD ZONE WITHIN 500 LINEAR FEET OF ANY EXISTING PRIVATE OR PUBLIC DRINKING WATER SOURCE EXCEPT FOR MATERIAL SITES WHERE THE FLOOR IS HIGHER THAN THE SURROUNDING GROUND IN AT LEAST ONE DIRECTION.]”

The motion to amend Ordinance 2022-36 (Johnson, Chesley) Substitute carried by the following vote:

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

Chesley moved to amend Ordinance 2022-36 (Johnson, Chesley) Substitute as follows:

Amend KPB 21.29.050(A) in Section 3 to read, “The planning commission or planning director, as applicable, must impose the following mandatory conditions prior to approval of a permit under this chapter:

1. Buffer Zone.

...

f. For material site parcels with boundaries which include coastal cut banks, the mandatory buffer area condition in subsection (A) above must be increased to 100 feet between the area of excavation and the coastal cut bank. The planning commission may waive this requirement in uninhabited areas or if the planning commission finds based on substantial evidence presented that the waiver of the increased buffer area will not endanger the public health, welfare and safety of the vicinity. For the purposes of this subsection, “coastal cut banks” are defined as banks of marine coasts with exposed soil surface that have occurred from natural or manmade causes whether the exposed surface extends to the high water mark or not.

...”

The motion to amend Ordinance 2022-36 (Johnson, Chesley) Substitute carried by the following vote:

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

Chesley moved to amend Ordinance 2022-36 (Johnson, Chesley) Substitute as follows:

Amend KPB 21.29.050(B) in Section 3 to read, “Site Specific Conditions. The planning commission or planning director, as applicable, may set conditions of approval for issuance of a counter permit or CLUP, as appropriate for the area in which the development is sited, for the following:

...

7. *Special Impacts Zone (SIZ)*

...

b. For counter permits, noise, dust, or other impacts that cannot be screened as set forth in Subsection 8(a) within 500 horizontal feet of an existing principle residential structure may be grounds for denial. For Type 1, 2, and 3 Endorsements, noise, dust,

or other impacts that cannot be screened as set forth in Subsection 8(a) within [750]1000 horizontal feet of an existing principle residential structure may be grounds for denial. The distances specified in this subsection will be measured from any outer wall of a principle residential structure to the nearest boundary of the proposed material site permitted parcel."

The motion to amend Ordinance 2022-36 (Johnson, Chesley) Substitute carried by the following vote:

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

The motion to enact Ordinance 2022-36 (Johnson, Chesley) Substitute as amended carried by the following vote:

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

UNFINISHED BUSINESS

PUBLIC COMMENTS AND PUBLIC PRESENTATIONS

ASSEMBLY COMMENTS

Assembly Member Elam stated he enjoyed working with Mr. Derkevorkian and Mr. Chesley. Mr. Elam thanked District 5 constituents for re-electing him.

Assembly Member Hibbert congratulated Mr. Elam, Mr. Ribbens, and Mayor Micciche on their re-election. Mr. Hibbert stated he would miss Mr. Derkevorkian and Mr. Chesley. He thanked the clerks for their hard work on the election.

Assembly Member Derkevorkian thanked District 2 constituents for allowing him to represent them and wished everyone a good evening.

Assembly Member Ribbens thanked District 3 constituents for electing him and thanked Mr. Derkevorkian and Mr. Chesley for their service.

Assembly Member Chesley thanked his wife for her support during his term in office. He stated he hoped the Assembly would find ways to help fund the school maintenance.

Assembly Member Tupper stated he was disappointed that he was not present for Mr. Derkevorkian and Mr. Chesley's last meeting but looked forward to working with the newly elected assembly members.

Assembly Member Ecklund congratulated the newly elected assembly members and thanked the clerks for their work on the election. Ms. Ecklund stated there was more work to do on gravel pits.

Vice President Cox said goodbye to Mr. Derkevorkian and Mr. Chesley. He thanked the clerks for their hardwork on the election. Mr. Cox announced upcoming Soldotna High School sporting events.

President Johnson stated he appreciated Mr. Derkevorkian's service and that Mr. Chesley was a naturally good politician. He thanked Brenda Ahlberg for her hard work while wearing multiple hats. He reminded everyone the next assembly meeting they would conduct elections for Assembly officers.

INFORMATIONAL MATERIALS AND REPORTS

- 1. [KPB-5553](#) Cook Inlet Regional Citizens Advisory Council Quarterly Report

ASSEMBLY MEETING AND HEARING ANNOUNCEMENTS

- 1. October 24, 2023 6:00 PM
Regular Assembly Meeting
Betty J. Glick Assembly Chambers
Remote Participation Available Through Zoom
Meeting ID: 884 7373 9641 Passcode: 671108

ADJOURNMENT

With no further business to come before the assembly, President Johnson adjourned the meeting at 9:02 p.m.

I certify the above represents accurate minutes of the Kenai Peninsula Borough Assembly meeting of October 10, 2023.

Michele Turner, CMC, Borough Clerk

Approved by the Assembly: _____