



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 19, 2018

6:00 PM

Assembly Chambers

CALL TO ORDER

PLEDGE OF ALLEGIANCE

INVOCATION

[Clerk's Note: The invocation was offered by Jennifer Waller from Freedom House.]

ROLL CALL

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

Also present were:

Charlie Pierce, Borough Mayor

John Quick, 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 item.

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

APPROVAL OF AGENDA AND CONSENT AGENDA

Bagley moved to approve the agenda and consent agenda.

[KPB-1769](#) June 5, 2018 Regular Assembly Meeting Minutes
approved.

[2018-029](#) A Resolution Authorizing Award of a Contract to K+A Designstudios, P.C. for Professional Design Services for the Nikiski Fire Station 3 Design Development Update, Construction Document, and Construction Administration Without Competitive Bidding (Mayor)

This Resolution was adopted.

[2018-030](#) A Resolution Authorizing the Mayor to Execute the Fiscal Year 2019 Alaska Land Mobile Radio Communication System Membership Agreements (Mayor)

This Resolution was adopted.

[KPB-1764](#) Approving the Issuance of a Letter of Non-Objection to the Marijuana Control Board Regarding the New Limited Marijuana Cultivation Facility, License No. 14002 Filed by CNE Development, Subject to the following Standard Conditions :

[Clerk's Note: Standard Conditions for Commercial Marijuana Facilities are as follows:

1. The marijuana establishment shall conduct their operation consistent with the site plan submitted to the Kenai Peninsula Borough.
2. There shall be no parking in the borough rights-of-way generated by the marijuana establishment.
3. The marijuana establishment shall remain current in all Kenai Peninsula Borough tax obligations consistent with KPB 7.30.020 (A).]

approved.

[KPB-1765](#) Approving the Issuance of a Letter of Non-Objection to the Marijuana Control Board Regarding the New Standard Marijuana Cultivation Facility, License No. 15403 Filed by Worner Brothers Horticulture, LLC, Subject to the following Standard Conditions:

1. The marijuana establishment shall conduct their operation consistent with the site plan submitted to the Kenai Peninsula Borough.
2. There shall be no parking in the borough rights-of-way generated by the marijuana establishment.
3. The marijuana establishment shall remain current in all Kenai Peninsula Borough tax obligations consistent with KPB 7.30.020 (A).]

approved.

[KPB-1766](#) Approving the Issuance of a Letter of Non-Objection to the Marijuana Control Board Regarding the New Limited Marijuana Cultivation Facility, License No. 14579 Filed by Smoking Joe's Terps Co., Subject to the following Standard Conditions:

1. The marijuana establishment shall conduct their operation consistent with the site plan submitted to the Kenai Peninsula Borough.
2. There shall be no parking in the borough rights-of-way generated by the marijuana establishment.
3. The marijuana establishment shall remain current in all Kenai Peninsula Borough tax obligations consistent with KPB 7.30.020 (A).]

approved.

[KPB-1767](#) Petition to Vacate Approximately 710 feet of Idaho Street between Breiby Court and Lopez Avenue and Vacate the Associated 10-foot-wide Utility Easements Adjacent to the West and East Sides of the Idaho Street Right-of-Way as Granted by Heaven's View Subdivision. The Right-of-Way being Vacated is Unconstructed and Located within the N1/2 SW1/4 of Section 25, Township 5 North, Range 10 West, Seward Meridian, Alaska, within the Kenai Peninsula Borough

[Clerk's Note: The Planning Commission approved the above referenced petition to vacate at its May 29, 2018 meeting by unanimous consent.]

approved.

[KPB-1768](#) Confirming an Appointment to the Road Service Area Board (Mayor) (Referred to Policies and Procedures Committee)

Appointment	Board Seat	Term Expires
Barbara Blakeley	Central Region	September 20, 2018

approved.

[2018-26](#) WITHDRAWN BY SPONSOR Enacting KPB Chapter 5.16, Imposing an Excise Tax on Cigarettes, Electronic Cigarettes, Other Tobacco Products, and Vaping Products Containing Nicotine in the Borough (Mayor)

[KPB-1770](#) Mayor's Line Item Veto Ordinance 2018-19 Peninsula Promotion

[Clerk's Note: 6 Yes Votes are required to override a veto by the mayor.]

The motion to amend the agenda by adding the Mayor's Line Item Veto Ordinance 2018-19 Peninsula Promotion failed by the following vote:

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

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

[KPB-1771](#)

Mayor's Line Item Veto Ordinance 2018-19 School District Funding
[Clerk's Note: 6 Yes votes are required to override a veto by the mayor.]

The motion to amend the agenda by adding the Mayor's Line Item Veto Ordinance 2018-19 School District Funding failed by the following vote:

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

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

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

MOTION: Schedule a special meeting for July 6, 2018 at 6:00 PM to address the Mayor's Vetoes regarding Peninsula Promotion and School District Funding

The motion to schedule a special meeting on July 6, 2018 carried by the following vote:

Yes: 7 - Dunne, Bagley, Hibbert, Carpenter, Cooper, Smalley, and Ogle

No: 2 - Fischer, and Blakeley

COMMENDING RESOLUTIONS AND PROCLAMATIONS

PRESENTATIONS WITH PRIOR NOTICE

[KPB-1761](#)

Kristine Schmidt, Borough Procedures and Practices (10 Minutes)

[Clerk's Note: Kristine Schmidt gave a presentation to the assembly regarding borough procedures and practices.]

[KPB-1762](#)

Bringing Broadband to the Kenai Peninsula: An Update from Alaska Communications - Heather Cavanagh and Stan Masneri (10 Minutes)

[Clerk's Note: Heather Cavanagh and Stan Masneri from Alaska Communications gave a presentation to the assembly regarding broadband service in the Kenai Peninsula.]

PUBLIC COMMENTS ON ITEMS NOT APPEARING ON THE AGENDA

President Ogle called for public comments.

Brian Olson, Soldotna addressed the assembly regarding City of Soldotna annexation.

Ruby Denison, Ninilchik addressed the assembly regarding budgetary issues.

Pamela Parker, Soldotna spoke in opposition to the Mayor's Veto regarding peninsula promotion funding.

Mike Schuster, Ninilchik spoke in opposition to the Mayor's Veto regarding peninsula promotion funding.

James Harris, Soldotna spoke in opposition to the Mayor's Veto regarding school district funding.

George Pierce, Kasilof spoke in support of the Mayor's Vetoes; peninsula promotion and school district funding.

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-1754](#) Authorization to Award a Contract for ITB18-020 Central Peninsula Hospital Parking Lot Landscaping to BMGC LLC., Kenai, Alaska
 - b. [KPB-1755](#) Authorization to Award Contract for ITB18-011 Application of Crack Sealant to Sockeye Asphalt Maintenance LLC., Wasilla, Alaska
 - c. [KPB-1756](#) Authorization to Award Contracts for ITB-18-015 General Maintenance Supply Contract to Alaska Industrial Hardware, Inc. Kenai, Alaska and Denali Industrial Supply, LLC. Anchorage, Alaska
3. Other
 - a. [KPB-1759](#) Certificate of Achievement Award for Excellence in Financial Reporting has been Awarded to the Kenai Peninsula Borough by (GFOA) Government Finance Officers Association

- b. [KPB-1760](#) Certification of the 2018 Main Roll Assessment
- c. [KPB-1757](#) Revenue - Expenditure Report - May 2018
- d. [KPB-1758](#) Budget Revisions - May 2018

ITEMS NOT COMPLETED FROM PRIOR AGENDA

None.

PUBLIC HEARINGS ON ORDINANCES

[2018-19-01](#) An Ordinance Providing for an Exception to KPB 5.20.080 and Transferring \$1,750,000 from the Land Trust Fund to the General Fund (Carpenter)

Cooper moved to enact Ordinance 2018-19-01.

President Ogle called for public comment.

Linda Hutchings, Soldotna spoke in opposition to Ordinance 2018-19-01.

The following people spoke in support of Ordinance 2018-19-01:

Fred Sturman, Soldotna

David Brighton, Kenai

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

Assembly Members Smalley, Dunne and Cooper spoke in opposition to Ordinance 2018-19-01.

Assembly Member Blakeley spoke in support of Ordinance 2018-19-01.

President Ogle passed the gavel to Vice President Bagley and spoke in support of Ordinance 2018-19-01. Vice President Bagley returned the gavel to President Ogle.

The motion to enact Ordinance 2018-19-01 failed by the following vote:

Yes: 4 - Fischer, Carpenter, Blakeley, and Ogle

No: 5 - Dunne, Bagley, Hibbert, Cooper, and Smalley

[2018-24](#) An Ordinance Amending the Borough's Sales Tax Code to Levy a 12 Percent Temporary Lodging Tax, Exempt Temporary Lodging Rentals from the General Sales Tax, and Allow Cities that Levy a Similar

Separate Sales Tax on Temporary Lodging to Exempt up to One-Half of the Borough Temporary Lodging Tax, Subject to Voter Approval (Bagley, Dunne)

Cooper moved to enact Ordinance 2018-24.

President Ogle called for public comment.

The following people spoke in support of Ordinance 2018-24:

Diane McRae, Kasilof
George Pierce, Kasilof
Paul Ostrander, Kenai

The following people spoke in opposition to Ordinance 2018-24:

Terry Johnson, Kenai
Bill White, Sterling
Joe Connors, Sterling
Patricia Patterson, Soldotna
Luke Peroni, Seward
Mike Flores, Soldotna
Debbie Speakman, Homer
Adriane Sweeney, Homer
Ray DeBardelaben, Soldotna
Lee Helverson, Cooper Landing
Carol Friaser, Soldotna
Marcia Kuszmaul, Homer
Melinda Leichliter, Kenai
Linda Hutchings, Soldotna
Lisa McDonald, Soldotna
Tyler, Soldotna
Alisha Malby, Anchorage
Richard Erkeneff, Kenai
Ron Wellbacker, Soldotna
Fred Sturman, Soldotna
Don Cho, Sterling
Danny Seevey, Seward
Duane Bannock, Kenai
Jim Johnson,
Diane McRae, Kasilof
Randy Bird, Sterling
Ron Carmen, Nikiski
Daniel Lynch, Soldotna
Penny Vadla, Soldotna

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

Bagley moved to amend Ordinance 2018-24 as follows:

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

Amend the ninth 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 percent temporary lodging tax an amount equal to a similar [ADDITIONAL] city tax up to 6 percent; and"

Add a new tenth Whereas clause immediately preceeding the final Wherea clause to read, "this also specifically authorizes cites to levy a temporary lodging tax to ensure the general law cities may do so under AS 29.45.700(a) even though the borough exempts temporary lodging from its general sales tax; and"

Amend Section 1 to read. "KPB 5.18.100 is amended as follows:

5.18.100. General-Levied-Amount.

...

C. In addition to the sales taxes levied by the borough, any municipality within the borough may levy a consumer's sales tax [AND] including a temporary lodging 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."

Amend Section 3 to read, "That KPB 5.18.215 is hereby enacted as follows:

5.18.215. Exemptions/waivers-Temporary lodging within cities in the borough.

Rentals of temporary lodging within any city in the borough are exempt from the portion of the borough's temporary lodging tax in an amount equal to the amount of a similar [SEPARATE] temporary lodging tax that may be levied by a city, up to a maximum exemption of one-half of the borough's temporary lodging tax."

Amend Section 4 to read, "That a ballot proposition shall be placed before borough voters at the regular election on October 2, 2018 to read as follows:

Shall Ordinance 2018-24, [PROVIDING FOR THE EXEMPTION OF] exempting temporary lodging from the general sales tax, [THE LEVY OF A TAX ON TEMPORARY LODGING] providing for a sales tax of up to 12 percent [OF THE RENTAL PRICE] on temporary lodging, and, in any city [IN THE BOROUGH] that taxes [LEVIES A SIMILAR ADDITIONAL] temporary lodging [TAX], [GRANTS AN EXEMPTION OF] exempting from the borough tax an amount equal to the city's temporary lodging tax[,], up to a maximum of one-half of the borough's temporary lodging tax be approved?[,] "Temporary lodging" means "a service to provide any lodging of less than one month".

Yes ____ A "yes" vote means you approve of a [TAX ON] borough temporary lodging tax of up to 12 percent [of the rental price in the borough] instead of the general sales tax on temporary lodging, with an exemption in any city that levies a [SIMILAR ADDITIONAL] temporary lodging tax of an amount equal to the city's tax. This exemption [IS UP TO A MAXIMUM OF] in cities cannot exceed one-half of the borough's temporary lodging tax.

No ____ A "no" vote means you oppose a borough tax on temporary lodging of up to 12 percent [OF THE RENTAL PRICE IN THE BOROUGH] instead of the general sales tax, with an exemption in any city that levies a [SIMILAR ADDITIONAL] temporary lodging tax of an amount equal to the city's tax. This exemption [IS UP TO A MAXIMUM OF] in cities cannot exceed one-half of the borough's temporary lodging tax."

The motion to amend Ordinance 2018-24 carried by the following vote:

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

The motion to enact Ordinance 2018-24 as amended failed by the following vote:

Yes: 3 - Dunne, Bagley, and Hibbert

No: 6 - Fischer, Carpenter, Blakeley, Cooper, Smalley, and Ogle

2018-16

(Bagley) Substitute: An Ordinance Amending the Code to Move the Common Boundary Between the Central Kenai Peninsula Hospital Service Area and the South Kenai Peninsula Hospital Service Area South, Subject to Approval by Voters in the Central Kenai Peninsula Hospital Service Area and the Proposed New Area, and to Expand the South Kenai Peninsula Hospital Service Area to Include the Land South Of Kachemak Bay Excluding the City Of Seldovia, Subject to Voter Approval

[Clerk's Note: A teleconference site will be established at the Borough Office in Homer in order to take public testimony on the above

referenced Ordinance.]

[Clerk's Note: The motion to enact Ordinance 2018-16 was on the floor from the May 1, 2018 meeting.]

President Ogle called for public comment.

Debbie Cary, Ninilchik spoke in support of Ordinance 2018-16.

Fred Sturman, Soldotna spoke in opposition to Ordinance 2018-16.

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

[Clerk's Note: Assembly Member Bagley withdrew his motion to amend that was on the floor from the May 1, 2018 meeting.]

Bagley moved to amend Ordinance 2018-16 by substitute.

The motion to amend by substitute carried by the following vote:

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

Bagley moved to postpone Ordinance 2018-16 (Bagley) Substitute to July 17, 2018.

The motion to postpone Ordinance 2018-16 (Bagley) Substitute to July 17, 2018 carried by the following vote:

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

[2018-23](#)

An Ordinance Amending KPB 7.20 and KPB 7.30 Regarding Borough Comments on State Marijuana Licenses (Ogle) (Hearing on 06/19/18)

Hibbert moved to enact Ordinance 2018-23.

President Ogle called for public comment with none being offered.

Hibbert moved to amend Ordinance 2018-23 as follows:

Amend the final Whereas clause to read, "the Planning Commission reviewed this ordinance at its May 29, 2018 meeting and recommended approval by unanimous consent."

The motion to amend Ordinance 2018-23 carried by the following vote:

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

The motion to enact Ordinance 2018-23 as amended carried by the following vote:

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

UNFINISHED BUSINESS

Postponed Items

2018-20

An Ordinance Amending KPB 5.18.200 to Amend the Seasonal Exemption from Sales Taxes of Nonprepared Food Items to Apply from October 1 to March 31 of Each Year (Bagley)

[Clerk's Note: The motion to enact Ordinance 2018-20 was on the floor from the June 5, 2018 meeting.]

President Ogle called for public comment.

The following people spoke in opposition to Ordinance 2018-20:

George Pierce, Kasilof
Fred Sturman, Soldotna
Ron Carmen, Nikiski
Daniel Lynch, Soldotna
Jesse Bjorkman, Nikiski

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

Assembly Members Cooper, Dunne and Fischer spoke in opposition to Ordinance 2018-20.

Assembly Members Blakeley and Smalley spoke in support of Ordinance 2018-20.

President Ogle passed the gavel to Vice President Bagley and spoke in opposition to Ordinance 2018-20. Vice President Bagley returned the gavel to President Ogle.

Bagley moved to amend Ordinance 2018-20 as follows:

Amend the title to read, "AMENDING KPB 5.18.200 TO AMEND THE SEASONAL EXEMPTION FROM SALES TAXES OF NONPREPARED FOOD ITEMS TO APPLY FROM OCTOBER 1 TO MARCH 31 OF EACH YEAR SUBJECT TO VOTER APPROVAL"

Amend the sixth Whereas clause to read, "changing the exemption period to coincide with typical quarterly filing periods will help the sellers administer the exemption; and"

Add a new seventh Whereas clause immediately following the sixth Whereas clause to read, "as the voters first approved this exemption by initiative it is appropriate to seek voter approval to amend it, and;"

Amend Section 2 to read, "That [THIS ORDINANCE SHALL TAKE EFFECT

SEPTEMBER 1, 2018] a ballot proposition shall be placed before borough voters at the regular election on October 2, 2018 to read as follows:

Shall Ordinance 2018-20, amending KPB 5.18.200 to amend the seasonal exemption from sales taxes of nonprepared food items to apply for six months, from October 1 to March 31 of each year instead of for nine months, from September 1 until May 31, be approved?

Yes A "yes" vote means you approve of amending the seasonal sales tax exemption of nonprepared food items to apply for six months, from October 1 to March 31 of each year. Instead of for nine months, from September 1 until May 31 of each year.

No A "no" vote means you oppose amending the seasonal exemption of nonprepared food items from sales taxes to apply for six months, from October 1 to March 31 of each year. Instead of for nine months, from September 1 until May 31 of each year."

Add a new Section 3 to read, "That Sections 2 and 3 of this ordinance shall take effect immediately upon its enactment. Section 1 of this ordinance shall take effect April 1, 2019 only. If the proposition contained in Section 2 of this ordinance is approved by a majority of voters voting on the question in the regular election on October 2, 2018."

The motion to amend Ordinance 2018-20 carried by the following vote:

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

The motion to enact Ordinance 2018-20 as amended failed by the following vote:

Yes: 4 - Bagley, Hibbert, Blakeley, and Smalley

No: 5 - Dunne, Fischer, Carpenter, Cooper, and Ogle

PUBLIC COMMENTS AND PUBLIC PRESENTATIONS

President Ogle called for public comment.

Debbie Cary, Ninilchik addressed the assembly regarding funding for schools and peninsula promotion.

Fred Sturman, Soldotna addressed the assembly regarding new chairs in assembly chambers and funding for peninsula promotion.

Duane Bannock, Kenai addressed the assembly regarding borough revenue and expenditures.

George Pierce, Kasilof addressed the assembly regarding reducing the budget and allowing public hearing after amendments were moved on the floor.

Jesse Bjorkman, Nikiski addressed the assembly regarding them having a plan.

Daniel Lynch, Soldotna thanked the assembly for thier work and new chairs in assembly chambers.

Penny Vadla, Soldotna thanked the assembly and allowing public hearing after amendments were moved on the floor, as well as funding for schools.

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

ASSEMBLY MEETING AND HEARING ANNOUNCEMENTS

1. The next meeting of the Kenai Peninsula Borough Assembly will be held on July 17, 2018, at 6:00 P.M. in the Assembly Chambers, Soldotna, Alaska

ASSEMBLY COMMENTS

Assembly Member Fischer thanked everyone for their testimony and wished everyone a good evening.

Assembly Member Dunne thanked everyone for their testimony. He thanked the Finance Department and staff for their help through the budget process and congratulated them on their award. Mr. Dunne expressed the importance of funding schools. He stated June was recognized as "Pride Month" honoring the LGBT community and invited everyone to Homer for the pride parade on June 23, 2018.

Assembly Member Blakeley stated the last eight months had been a learning experience. He thanked everyone for their testimony. He stated he was the auctioneer for the 4-H livestock program and invited everyone to attend the 4-H auction at the Ninilchik fair.

Assembly Member Cooper thanked everyone for their testimony and wished everyone a good evening.

Assembly Member Smalley thanked borough staff for their flood response in Seward and congratulated the Finance Department for their award. He thanked everyone for their testimony.

Assembly Member Hibbert congratulated the Finance Department for their award

and wished everyone a good evening.

Assembly Member Carpenter thanked borough staff for their help with the Seward flooding. He congratulated the Finance Department for their award. Mr. Carpenter also stated he supported the Mayor's budget as presented.

Assembly Member Bagley discussed the Cook Inlet Aquaculture's newsletter and stated the assembly was now on the mailing list.

President Ogle congratulated Brandi Harbaugh and the Finance Department for their award. He thanked Barbara Blakeley for submitting her application to the Road Service Area Board. Mr. Ogle invited everyone to attend the Nikiski Community Meeting on June 20, 2018 where Alaska Gasline Development Corporation will be discussing the re-route of the Kenai Spur Highway. He agreed with Ms. Cooper stating the senior exemptions needed a closer look.

INFORMATIONAL MATERIALS AND REPORTS

None.

NOTICE OF NEXT MEETING AND ADJOURNMENT

With no further business to come before the assembly, President Ogle adjourned the meeting at 10:55 p.m.

I certify the above represents accurate minutes of the Kenai Peninsula Borough Assembly meeting of June 19, 2018.

Johni Blankenship, MMC, Borough Clerk

Approved by the Assembly: _____