



Kenai Peninsula Borough

144 North Binkley Street
Soldotna, AK 99669

Meeting Minutes - Final

Assembly

Kelly Cooper, President
Hal Smalley, Vice President
Norm Blakeley
Jesse Bjorkman
Kenn Carpenter
Tyson Cox
Willy Dunne
Brent Hibbert
Brent Johnson

Tuesday, July 7, 2020

6:00 PM

The meeting will be held through Zoom - Meeting ID:
128 871 931, from the Betty J. Glick Assembly
Chambers

CALL TO ORDER

PLEDGE OF ALLEGIANCE

INVOCATION

Present: 9 - Jesse Bjorkman, Norm Blakeley, Kenn Carpenter, Tyson Cox, Willy Dunne, Brent Hibbert, Brent Johnson, Hal Smalley, and Kelly Cooper

[Clerk's Note: The invocation was offered by Adam Hykes.]

ROLL CALL

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

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

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

Assembly Member Smalley stated the Legislative Committee met and discussed its agenda item.

President Cooper passed the gavel to Vice President Smalley and moved to direct the Borough Clerk to send Absentee by Mail Ballot Applications to all registered voters in the Kenai Peninsula Borough as part of the Absentee Vote By Mail promotional campaign approved by Resolution 2020-047 and as part of the CARES Act spending plan. The motion carried by the following vote:

Yes: 9 - Bjorkman, Blakeley, Carpenter, Cox, Dunne, Hibbert, Johnson, Smalley, and Cooper

Vice President Smalley returned the gavel to President Cooper.

APPROVAL OF AGENDA AND CONSENT AGENDA

Copies have been made available to the public, Borough Clerk Johni Blankenship noted by title only the resolutions and ordinances on the consent agenda.

- [KPB-2684](#) June 16, 2020 Assembly Meeting Minutes
approved.
- [2019-19-41](#) An Ordinance Appropriating Additional Closure and Post Closure Care Liability Funds for the Homer Landfill Closure Phase II Capital Improvement Project (Mayor)
This Budget Ordinance was enacted.
- [2019-19-42](#) An Ordinance Appropriating \$110,000 to the Borough's School Revenue Capital Projects Fund for the Kaleidoscope Charter School of Arts and Science Flooring Replacement Project (Mayor)
This Budget Ordinance enacted.
- [2020-048](#) A Resolution Supporting the One-Time Dismissal Without Prejudice of the 2020 Annual Borough Foreclosure Action for 2019 and Prior Years' Delinquent Taxes (Mayor)
This Resolution was adopted.
- [2020-049](#) A Resolution Authorizing a Quarterly Update to the Borough Retention Schedule (Cooper at the Request of the Borough Clerk)
This Resolution was adopted.

[2019-19-43](#) An Ordinance to Record FY2020 Expenditures Paid by the State of Alaska Department of Administration, Division of Retirement & Benefits on Behalf of the Kenai Peninsula Borough Towards the Borough's Unfunded PERS Liability (Mayor)

This Budget Ordinance was introduced and set for public hearing.

[2020-19-01](#) An Ordinance Appropriating Refinanced 2010 General Obligation School Bond Proceeds for the Purpose of Paying Bond Refinancing Issuance Costs (Mayor)

This Budget Ordinance was introduced and set for public hearing.

[2020-34](#) An Ordinance Authorizing a Negotiated Sale of Tract E, Alaska State Land Survey 2003-5, Plat No. 2006-21, Seward Recording District to Jerry and Cheryle James at Fair Market Value (Mayor)

This Ordinance was introduced and set for public hearing.

[KPB-2673](#) Approving a Letter of Non-Objection of the Issuance of New Liquor License and Restaurant Designation Permit as Requested by Nikko Garden, License 5906

approved.

Approval of the Consent Agenda

President Cooper 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 - Bjorkman, Blakeley, Carpenter, Cox, Dunne, Hibbert, Johnson, Smalley, and Cooper

COMMENDING RESOLUTIONS AND PROCLAMATIONS

PRESENTATIONS WITH PRIOR NOTICE

PUBLIC COMMENTS ON ITEMS NOT APPEARING ON THE AGENDA

President Cooper called for public comments with none being offered.

ITEMS NOT COMPLETED FROM PRIOR AGENDA

PUBLIC HEARINGS ON ORDINANCES

[2020-31](#) An Ordinance Expanding the Anchor Point Fire and Emergency Medical Service Area Boundaries to Include the Ninilchik Area (Johnson)

Dunne moved to enact Ordinance 2020-31.

President Cooper called for public comments with none being offered.

Johnson moved to amend Ordinance 2020-31 as follows:

Replace Section 2 to read, "16.60.010 Established - Boundaries

There is established a service area within the borough, designated by the "Anchor Point - Ninilchik Fire and Emergency Medical Service Area," including that portion of the borough described as follows: [BOUNDARY DESCRIPTION PENDING]

All of the following referenced to the Seward Meridian, Alaska:

Commencing at the section corner common to sections 2, 3, 10, and 11, T3S,

R16W;

Thence east along the section line to the range line common to R15W and R16W;

Thence north along said range line to the baseline at the northwest corner of T1S,

R15W;

Thence east along the baseline to the southeast corner of T1N, R15W;

Thence north along the range line common to R14W and R15W to the northeast corner T1N, R15W;

Thence east along the township line to the corner common to Sections 32 and 33,

T2N, R11W, and Sections 4 and 5, T1N, R11W;

Thence south along the section line to the intersection with the baseline;

Thence east along the baseline to the northeast corner Section 2, T1S, R11W;

Thence south along the section line to the corner common to Sections 35 & 36, T2S, R11W, and Sections 1 and 2, T3S, R11W;

Thence west along the township line common to T2S and T3S to the corner of T2S, R11 and 12W, and T3S, R11 and 12W;

Thence south along the range line common to R11W and R12W to the corner of

Sections 30 and 31, T4S, R11W, and Sections 25 and 36, T4S, R12W;

Thence continuing south along said range line to the point of intersection of the line common to Section 31, T4S, R11W, and Section 36, T4S, R12W and the thread of the Anchor River;

Thence westerly along the thread of the Anchor River to the point of intersection with the line common to Sections 28 and 29, T5S, R14W;

Thence south along said common line and continuing along the line common to Sections 32 and 33, T5S, R14W, to the north 1/16 th corner common to said Sections 32 and 33, T5S, R14W;

Thence west along the north 1/16 th line through Section 32 and continuing through Section 31 to the north 1/16 th corner of Section 31 on the range line common to T5S, R14W and T5S, R15W;

Thence west along the north 1/16 th line through Section 36, T5S, R15W and continuing through Section 35, T5S, R15W to the Mean High Water of Cook Inlet;

Thence from the latitude of the intersection of the north 1/16 th line of Section 35, T5S, R15W and the MHW of Cook Inlet due west to the west edge of T5S, R15W;
Thence north along the line between R15W and R16W to the northwest corner of T5S, R15W;

Thence west along the line between T5S and T4S to the southwest corner of Section 35, T4S, R16W;

Thence north to the section corner common to sections 2, 3, 10, and 11, T3S, R16W, the true point of beginning.

The motion to amend Ordinance 2020-31 carried by the following vote:

Yes: 9 - Bjorkman, Blakeley, Carpenter, Cox, Dunne, Hibbert, Johnson, Smalley, and Cooper

Johnson moved to amend Ordinance 2020-31 as follows:

Amend Section 1 to read, "That the title of KPB Chapter 16.60 is hereby amended as follows: Chapter 16.60 [ANCHOR POINT-NINILCHIK FIRE AND EMERGENCY MEDICAL SERVICE AREA] Western Emergency Service Area. Chapter 16.60 [ANCHOR POINT-NINILCHIK FIRE AND EMERGENCY MEDICAL SERVICE AREA] Western Emergency Service Area."

The motion to amend Ordinance 2020-31 carried by the following vote:

Yes: 9 - Bjorkman, Blakeley, Carpenter, Cox, Dunne, Hibbert, Johnson, Smalley, and Cooper

Johnson moved to amend Ordinance 2020-31 as follows:

Replace Section 2 to read, "16.60.010 Established-Boundries
There is established a service area within the borough, designated the [ANCHOR POINT - NINILCHIK FIRE AND EMERGENCY MEDICAL SERVICE AREA] Western Emergency Service Area."

Section 3 to read, "16.60.020 Board of Directors

(a) There is established a board of directors for the [ANCHOR POINT - NINILCHIK FIRE AND EMERGENCY MEDICAL SERVICE AREA] Western Emergency Service Area composed of five members, two of whom shall be residents of Anchor Point, two whom shall be residents of Ninilchik and one of whom may be a resident from either community. All members who shall be residents of the service area and shall be appointed by the mayor and confirmed by the assembly. Up to one board member may also serve as a volunteer firefighter and/or emergency medical service provider for the service area without compensation except that which is ordinarily provided to such volunteers."

Section 4 to read, "16.60.090 Ambulance Billing

Revenues collected from ambulance billing by the [ANCHOR POINT - NINILCHIK FIRE AND EMERGENCY MEDICAL] Western Emergency Service Area as approved by the assembly pursuant to KPB 1.26.010 shall be recorded as revenue within that service area."

Add a new Section 5 to read, "KPB 16.60.100 Mill Levy
No mill levy in excess of 2.95 mills shall be levied on behalf of the service area unless
an increase is approved by the assembly during the budgetary process."

All remaining sections to be renumbered.

The motion to amend Ordinance 2020-31 carried by the following vote:

Yes: 9 - Bjorkman, Blakeley, Carpenter, Cox, Dunne, Hibbert, Johnson, Smalley, and Cooper

The motion to enact Ordinance 2020-31 as amended carried by the following vote:

Yes: 9 - Bjorkman, Blakeley, Carpenter, Cox, Dunne, Hibbert, Johnson, Smalley, and Cooper

2020-29

An Ordinance Opposing Passage of Legislation that Would Restrict Individual Rights Protected by the Second Amendment of the United States Constitution and Declaring the Borough a Second Amendment Sanctuary (Mayor, Bjorkman, Blakeley, Carpenter)

Smalley moved to enact Ordinance 2020-29

President Cooper called for public comment.

The following people spoke in opposition to Ordinance 2020-29:

Linda LaSota, Seward

Greg Sutter, Fritz Creek

Carrie Henson, Kalifornsky

Larry Stone, Homer

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

Smalley moved to amend Ordinance 2020-29 by substitute.

Assembly Member Bjorkman spoke in opposition to amending Ordinance 2020-29 by substitute.

The motion to amend Ordinance 2020-29 by substitute failed by the following vote:

Yes: 4 - Dunne, Johnson, Smalley, and Cooper

No: 5 - Bjorkman, Blakeley, Carpenter, Cox, and Hibbert

Bjorkman moved to suspend the rules and re-open public testimony.

The motion to suspend the rules and re-open public testimony carried by the following vote:

Yes: 9 - Bjorkman, Blakeley, Carpenter, Cox, Dunne, Hibbert, Johnson, Smalley, and Cooper

President Cooper called for public comment.

Elaina Spraker spoke in support of Ordinance 2020-29.

Debbie Cary spoke in opposition to Ordinance 2020-29.

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

President Cooper passed the gavel to Vice President Smalley and moved to amend Ordinance 2020-29 as follows:

Insert a new sixth Whereas clause to read, "all citizens are encouraged to engage in firearm safety training to responsibly enjoy their second amendment rights; and"

Amend the 8th, 9th, and 10th Whereas clauses to read "while recognizing that pursuant to AS 29.35.145 the borough has no authority to regulate the possession, ownership, sale, transfer, use, carrying, transportation, licensing, taxation or registration of firearms, except as specifically provided by the statute, the assembly wishes to express its opposition to any law that would unconstitutionally restrict the rights under the Second Amendment of the U.S. Constitution and under the Alaska Constitution of the citizens of Kenai Peninsula Borough to keep and bear arms; and

"the assembly wishes to express its deep commitment to the rights of citizens of the Kenai Peninsula Borough to keep and bear arms while acknowledging that the Kenai Peninsula Borough has no criminal law enforcement powers; and

"the assembly wishes to express its intent to stand as a sanctuary for Second Amendment rights in the area of the borough outside of the cities, and to oppose, within the scope of the borough's restricted legal authority, and the limits of the Constitutions of the United States and the State of Alaska, any efforts to unconstitutionally restrict such rights, and to use such legal means at its disposal to protect the rights of the citizens to keep and bear arms;"

Amend Section 2 to read, "That the assembly opposes the enactment of any legislation that would infringe upon the right of its law-abiding citizens to keep and bear arms [AND CONSIDERS SUCH LAWS TO BE UNCONSTITUTIONAL.]"

Amend Section 3 to read "that the assembly hereby expresses its intent to uphold the Second Amendment rights of the law-abiding citizens of the Kenai Peninsula Borough and that the borough's public funds, resources, employees, buildings or offices not be used to unlawfully restrict Second Amendment rights or to aid or assist in the enforcement of the unnecessary and unconstitutional restriction of the rights under the Second Amendment of the citizens of the Kenai Peninsula Borough to keep and bear arms."

Amend Section 3 to read, "that the assembly hereby declares the Kenai Peninsula Borough a "Second Amendment Sanctuary" in the manner and to the extent described in this ordinance."

The motion to amend Ordinance 2020-29 carried by the following vote:

Yes: 5 - Cox, Dunne, Johnson, Smalley, and Cooper

No: 4 - Bjorkman, Blakeley, Carpenter, and Hibbert

The motion to enact Ordinance 2020-29 as amended carried by the following vote:

Yes: 6 - Bjorkman, Blakeley, Carpenter, Cox, Hibbert, and Cooper

No: 3 - Dunne, Johnson, and Smalley

[KPB-2685](#) Veto of Ordinance 2020-24 Which Amends KPB Title 4 Regarding Borough Elections to Provide for Vote by Mail Elections, for More Time Between Regular Election and a Run-off Election, and to Remove Proposition Statements

[Clerk's Note: 6 Yes votes are required to override a veto by the mayor. If the motion to override is not successful or no motion is made, the veto will stand.]

Dunne moved to override the Mayor's Veto of Ordinance 2020-24.

Assembly Members Dunne, Cox, Smalley, Johnson and Blakeley spoke in support of the motion to override the Mayor's Veto.

Assembly Member Bjorkman spoke in opposition to the motion to override the Mayor's Veto.

The motion to override the Mayor's Veto of Ordinance 2020-24 carried by the following vote:

Yes: 6 - Cox, Dunne, Hibbert, Johnson, Smalley, and Cooper

No: 3 - Bjorkman, Blakeley, and Carpenter

UNFINISHED BUSINESS

NEW BUSINESS

Resolutions referred to Policies and Procedures Committee

2. Ordinances for Introduction

[2020-33](#) An Ordinance Authorizing the Direct Sale of a Nikiski Fire Service Area Ambulance to 1st Choice Home Health Care, Inc. Notwithstanding the Sealed Bid and Surplus Auction Provisions in KPB

2.58.500 (Mayor)

Hibbert moved to introduce Ordinance 2020-33 and set it for public hearing on August 4, 2020.

President Cooper called for public comment with none being offered.

Assembly Members Johnson and Hibbert spoke in opposition to the introduction of Ordinance 2020-33.

Ordinance 2020-33 was withdrawn by the sponsor without objection.

3. Other

[KPB-2668](#) Petition to Vacate Approximately 200 Foot Long Wild Salmon Way Cul-de-sac Adjoining Lots 1-A, 2-A, 14-A, and 15-A Ninilchik River Estates Addition No. 1 (HM 91-71), as Dedicated on Ninilchik River Estates Addition No.1 (HM 91-71) and Ninilchik River Estates Amended (HM 86-12). The Right-of-way Being Vacated is Developed with a Driveway, but is not KPB Maintained, and is Located Within the SW1/4 SE1/4 of Section 35, Township 1 South, Range 14 West, Seward Meridian, Alaska, Within the Kenai Peninsula Borough. KPB File 2020-043V

[Clerk's Note: The Planning Commission approved the above referenced petition to vacate at its June 8, 2020 meeting by unanimous vote]

Johnson moved to veto the action of the Planning Commission.

President Cooper called for public comment.

The following people spoke in support of the Petition to Vacate:

**Charlene McLean
Christina Hoffman
Mark Elf**

The following people spoke in opposition to the Petition to Vacate:

**Jody Michaeli
Arnold Mason
Blaine Gilman
Jeanne Manson
Diane Wilson
Halenea Bot
Lauren Hill**

Michael Herbert

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

Assembly Members Bjorkman, Cox and Johnson spoke in support of the Petition to Vacate.

President Cooper passed the gavel to Vice President Smalley and spoke in support of the Petition to Vacate. Vice President Smalley returned the gavel to President Cooper.

The motion to veto the action of the Planning Commission carried by the following vote:

Yes: 8 - Bjorkman, Blakeley, Carpenter, Dunne, Hibbert, Johnson, Smalley, and Cooper

No: 1 - Cox

MAYOR'S REPORT[KPB-2676](#) Mayor's Report Cover Memo

1. Assembly Requests/Responses
2. Agreements and Contracts
 - a. [KPB-2677](#) Authorization to Award a Contract for ITB20-026 McNeil Canyon Elementary School Boiler Replacement to Mechanical Specialist, Wasilla, Alaska.
 - b. [KPB-2678](#) Authorization to Award a Contract for RFP20-015 Emergency Responder Medical Physical/Testing Requirements to K-Beach Medical.
 - c. [KPB-2679](#) Authorization to Award a Contract for FRP20-011 Summer & Winter Road Maintenance – North Region Unit 3 – to Chumley's Inc.
 - d. [KPB-2680](#) Authorization to Award a Contract RFP20-011 Summer & Winter Road Maintenance – North Region Unit 4 – to Chumley's Inc.
 - e. [KPB-2681](#) Authorization to Award a Contract for RFP20-017 Summer & Winter Road Maintenance – Central Region Unit 3 – to River City Construction.
 - f. [KPB-2682](#) Authorization to Award a Contract for RFP20-012 Summer & Winter

road Maintenance – West Region Unit 1 – to River City Construction.

3. Other

[KPB-2683](#) Update on CARES Relief Fund, Brenda Ahlberg, Community and Fiscal Projects Manager

[Clerk's Note: A 10-minute presentation was given during Policies and Procedures Committee.]

ks PUBLIC COMMENTS AND PUBLIC PRESENTATIONS

President Cooper called for public comment.

Carrie Henson, Kalifornsky spoke on gun ownership and gun laws.

Larry Slone, Homer spoke on the Mayor's Veto and 2nd amendment rights.

Mary Hall, Kenai spoke in support of Ordinance 2020-33.

Dr. Hall, Kenai spoke in support of Ordinance 2020-33.

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

ASSEMBLY COMMENTS

Assembly Member Hibbert encouraged everyone to enjoy their summer and wished a good night.

Assembly Member Johnson stated he appreciated the dialogue and differing opinions of the evening.

Vice President Smalley thanked everyone for their testimony.

Assembly Member Cox hoped everyone had a good Independence Day weekend. He wished his father, Bobby Cox a happy birthday.

Assembly Member Bjorkman thanked the administration, assembly and public for their dialogue throughout the meeting. He encouraged everyone to listen for understanding and gain another's perspective. He wished everyone a good evening.

Assembly Member Dunne thanked the KPB Finance staff for their hard work on the CARES Act funding distribution.

Assembly Member Carpenter encouraged everyone to drive and be safe.

President Cooper thanked everyone for their hard work. She thanked the KPB staff

for their hard work on the CARES Act funding distribution. She wished everyone a good evening.

PENDING LEGISLATION

- 1. [2020-32](#) An Ordinance Amending KPB 1.24, General Penalty, KPB 12.04, Parking Regulations, and KPB 14.40 Right of Way Permits to Replace Civil Fines with Citations to Improve Enforcement and be Consistent with Other Recent Code Updates (Mayor)

INFORMATIONAL MATERIALS AND REPORTS

ASSEMBLY MEETING AND HEARING ANNOUNCEMENTS

- 1. August 4, 2020 Regular Assembly Meeting
6:00 PM This meeting will be held through Zoom
Meeting ID: 128 871 931 from the Betty J. Glick Assembly Chambers

ADJOURNMENT

With no further business to come before the assembly, President Cooper adjourned the meeting at 11:05 p.m. on July 7, 2020.

I certify the above represents accurate minutes of the Kenai Peninsula Borough Assembly meeting of July 7, 2020.

Johni Blankenship, MMC, Borough Clerk

Approved by the Assembly: _____