



Kenai Peninsula Borough

144 North Binkley Street
Soldotna, AK 99669

Meeting Minutes - Final

Assembly

Brent Hibbert, President

Brent Johnson, Vice President

Jesse Bjorkman

Kenn Carpenter

Lane Chesley

Tyson Cox

Richard Derkevorkian

Willy Dunne

Bill Elam

Tuesday, December 1, 2020

6:00 PM

This meeting will be held through Zoom

Meeting ID: 128 871 931

From the Borough Administration Building

CALL TO ORDER

PLEDGE OF ALLEGIANCE

INVOCATION

[Clerk's Note: The invocation was given by David Thompson.]

ROLL CALL

Present: 9 - Jesse Bjorkman, Kenn Carpenter, Tyson Cox, Willy Dunne, Brent Hibbert, Brent Johnson, Richard Derkevorkian, Bill Elam, and Lane Chesley

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

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

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

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

APPROVAL OF AGENDA AND CONSENT AGENDA

Johnson moved to approve the 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-2884](#) November 10, 2020 Regular Assembly Meeting Minutes approved.

[2020-19-12](#) An Ordinance Transferring Remaining Plant Replacement Expansion Funds from the South Peninsula Hospital Service Area Special Revenue Fund to the South Peninsula Hospital Capital Project Fund (Mayor)
This Budget Ordinance enacted.

[2020-19-13](#) An Ordinance Appropriating Funds from the Seldovia Recreational Service Area Fund Balance for the Cost of a Small Onsite Storage Building (Dunne)
[Clerk's Note: The final Whereas clause of Budget Ordinance 2020-19-13 was amended to read, "at its meeting on November 30, 2020, the Seldovia Recreational Service Area Board recommended approval."
This Budget Ordinance was enacted as amended.

[2020-19-14](#) An Ordinance Re-Appropriating North Peninsula Recreation Service Area Capital Project Funds of \$610,512.97 from Previously Appropriated Projects to the Nikiski Pool Roof Replacement Fund (Mayor)
This Budget Ordinance was enacted.

[2020-47](#) An Ordinance Authorizing an Amendment to the Tsalteshi Trails Association Lease to Provide a Ten-Year Extension of the Term (Mayor, Cox)
[Clerk's Note: The final Whereas clause of Ordinance 2020-47 was amended to read "the Kenai Peninsula Borough Planning Commission at its regularly scheduled meeting of November 30, 2020, recommended approval by unanimous consent."
This Ordinance was enacted as amended.

[2020-48](#) An Ordinance Authorizing a Communications Site Lease Agreement at Nikiski Fire Station 3 with SPITwSPOTS, Inc. (Mayor)

[Clerk's Note: The second to last Whereas clause of Ordinance 2020-48 was amended to read, "the Nikiski FireService Area Board at its regularly scheduled meeting of November 11, 2020 recommended approval by unanimous consent: and"

This Ordinance was enacted as amended.

[2020-079](#) Confirming Appointments to Non-Borough Boards (Hibbert)

This Resolution was adopted.

[2020-080](#) A Resolution Requesting the Alaska Department of Transportation and Public Facilities to Initiate Safety and Speed Limit Studies on Ohlson Mountain Road Near Homer (Dunne, Chesley)

This Resolution was adopted.

[2020-082](#) A Resolution Supporting the Transportation Priorities to be Considered for Grant Funding to be Submitted to the State of Alaska Department of Transportation and Public Facilities (Mayor)

[Clerk's Note: President Hibbert declared a possible conflict of interest as he is the owner of Alaska Cab Company which provides transportation for ILC grant recipient. President Hibbert abstained from the discussion and vote.]

This Resolution was adopted.

[2020-083](#) A Resolution Amending the Spending Plan Approved for CARES Act Coronavirus Relief Funds Received from the State of Alaska, to Supplement Audio Video Capabilities to Allow Remote Meetings at the Donald E. Gilman Kenai River Center, Kenai Peninsula Borough School District Telephony Project, Student Home-to-School Transportation Costs and Funding to Support Presumed COVID-19 Education-Related Expenditures (Mayor)

[Clerk's Note: a new eight Whereas clause for Resolution 2020-083 was inserted to read, "this amendment transfers \$600,000 from the CAR21 project to the CAR06 project, KPB Emergency Response, PPE, Personnel to provide funds, to cover overtime, backfill, Family First Coronavirus Response Act leave and other payroll-related costs associated with COVID-19-related public health and safety response; and"

Section one or Resolution 2020-083 was amended to read, "that the assembly hereby approves the portion of the Coronavirus Relief Fund Spending Plan -

Amended December 1, 2020, spending \$10,000 from CAR08 on remote meeting audio/videocapabilities, transferring \$600,000 from CAR21 to CAR06, transferring \$23,341 from lapsed CAR project funds to CAR21, and transferring up to \$3,481, 884 from lapsed CAR project funds to CAR21 of which 50% will be provided for transportation over and above the local contribution for fiscal year 2021 and 50% will be applied towards the existing local contribution, providing the original \$50 million payment to the School District through two funding sources."

This Resolution was adopted as amended.

[2020-49](#)

An Ordinance Approving the Transfer of Assets from Ninilchik Emergency Services, Inc. to the Borough on Behalf of the Newly Expanded Fire & Emergency Medical Service Area (Mayor)

This Ordinance was introduced and set for public hearing.

[KPB-2898](#)

Confirming Appointments to the Western Emergency Service Area Board (Mayor)

Cherie Richter, Seat A (Anchor Point), Term Expires October, 2023
Dawson Slaughter, Seat B (Anchor Point), Term Expires October, 2022
Kathryn Lopeman, Seat C (Ninilchik), Term Expires October, 2023
Katherine Covey, Seat D (Ninilchik), Term Expires October, 2022
James Lee Kenshalo, Seat E (At-Large), Term Expires October, 2021
approved.

[KPB-2899](#)

Confirming Appointments to Advisory Planning Commissions (Mayor)

Hope/Sunrise Advisory Planning Commission:
Jessie Maguire, Seat F, Term Expires September 30, 2023

Kachemak Bay Advisory Planning Commission:
Bruce Robinson, Seat B, Term Expires September 30, 2022
approved.

[KPB-2900](#)

Confirming Appointments to the Board of Equalization (Mayor)

Tyson R. Cox, Seat C, Term Expires December 31, 2023
Barbara Belluomini, Seat D, Term Expires December 31, 2023
Wenda J. Kennedy, Alternate Seat B, Term Expires December 31, 2023

Brett DeMeter, Alternate Seat C, Term Expires December 31, 2023

approved.

Approval of the Consent Agenda

President Hibbert 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, Carpenter, Cox, Dunne, Hibbert, Johnson, Derkevorkian, Elam, and Chesley

COMMENDING RESOLUTIONS AND PROCLAMATIONS

PRESENTATIONS WITH PRIOR NOTICE

1. [KPB-2901](#) Central Peninsula Hospital Quarterly Report (10 minutes)
[Clerk's Note: Rick Davis, Central Peninsula Hospitals CEO gave a quarterly report to the assembly.]
2. [KPB-2902](#) North Road Extension Update, Dil Uhlin, KPB Roads Director (10 minutes)
[Clerk's Note: John Hedges, KPB Purchasing and Contracting Director gave a presentation to the assembly.]

PUBLIC COMMENTS ON ITEMS NOT APPEARING ON THE AGENDA

President Hibbert called for public comment with none being offered.

ITEMS NOT COMPLETED FROM PRIOR AGENDA

PUBLIC HEARINGS ON ORDINANCES

[2020-19-07](#) An Ordinance Appropriating Refinanced 2013 Bear Creek Fire Service Area General Obligation Bond Proceeds for the Purpose of Paying Bond Refinancing Issuance Costs (Mayor) Tabled as amended

The motion to enact was on the floor from the 10/13/20 meeting.

President Hibbert called for public comment with none being offered.

Cox moved to table Budget Ordinance 2020-19-07 as amended.

The motion to table Budget Ordinance 2020-19-07 carried by the following vote:

Yes: 9 - Bjorkman, Carpenter, Cox, Dunne, Hibbert, Johnson, Derkevorkian, Elam, and Chesley

[2020-19-08](#) An Ordinance Appropriating Refinanced 2013 School General Obligation Bond Proceeds for the Purpose of Paying Bond Refinancing

Issuance Costs (Mayor) Tabled as amended

The motion to enact was on the floor from the 10/13/20 meeting.

President Hibbert called for public comment with none being offered.

Cox moved to table Ordinance 2020-19-08.

The motion to table Ordinance 2020-19-08 carried by the following vote:

Yes: 9 - Bjorkman, Carpenter, Cox, Dunne, Hibbert, Johnson, Derkevorkian, Elam, and Chesley

[2020-19-09](#) An Ordinance Appropriating Refinanced 2011 Hospital General Obligation Bond Proceeds for the Purpose of Paying Bond Refinancing Issuance Costs (Mayor) Tabled as amended

A motion to enact Budget Ordinance 2020-19-09 was on the floor from the 10/13/20 meeting.

President Hibbert called for public comment with none being offered.

Cox moved to table Budget Ordinance 2020-19-09.

The motion to table Budget Ordinance 2020-19-09 carried by the following vote:

Yes: 9 - Bjorkman, Carpenter, Cox, Dunne, Hibbert, Johnson, Derkevorkian, Elam, and Chesley

[2020-46](#) An Ordinance Amending KPB 5.12.150(D) "Home Port" Definition and Defining "Boatyard" for Personal Property Tax Purposes (Mayor)

Cox moved to enact Ordinance 2020-46.

President Hibbert called for public comment with none being offered.

Assembly Member Chesley spoke in support of Ordinance 2020-46.

The motion to enact Ordinance 2020-46 carried by the following vote:

Yes: 9 - Bjorkman, Carpenter, Cox, Dunne, Hibbert, Johnson, Derkevorkian, Elam, and Chesley

UNFINISHED BUSINESS

1. Postponed Item

[2020-45](#) An Ordinance Amending KPB 2.40, Planning Commission, KPB Title 20, Subdivisions, and KPB 21.20, Hearing and Appeals, to Correct Grammatical Errors, and Clarify and Improve Certain Administrative Procedures (Mayor)

A motion to enact Ordinance 2020-45 was on the floor from the 11/10/20 meeting.

President Hibbert called for public comment.

Bob Malloy, Kenai spoke in support to postpone Ordinance 2020-45 to provide

the Planning Commission an opportunity to review amendments.

Robret Ruffner, Kasilof Kenai spoke in support to postpone Ordinance 2020-45 to provide the Planning Commission an opportunity to review amendments.

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

Bjorkman moved to amend Ordinance 2020-45 as follows:

Section 37 to read as follows, "CHAPTER 20.65 VACATIONS.

20.65.070. Alteration of platted utility easements

H. Upon approval, the alteration of a utility easement can be finalized by either.

1. Recording of a subdivision plat which complies with Chapter 20.

2. Recording of a utility easement alteration resolution. Upon approval of an alteration to a platted utility easement, not associated with the vacation of a right-of-way, not requiring transfer of title, or changing of boundary lines, a resolution may be adopted by the planning commission and recorded by the planning department within the time frame set out in the resolution to finalize the approval. The petitioner is responsible for the recording fees. The Resolution will require an exhibit drawing showing, and dimensioning, the utility easement alteration area. The exhibit drawing shall be prepared, signed and sealed by a licensed land surveyor."

The motion to amend Ordinance 2020-45 carried by the following vote:

Yes: 9 - Bjorkman, Carpenter, Cox, Dunne, Hibbert, Johnson, Derkevorkian, Elam, and Chesley

Bjorkman moved to amend Ordinance 2020-45 as follows:

The final Whereas clause to read, "at its meeting of OCTOBER 12, 2020, the Planning Commission reviewed this ordinance and recommended APPROVAL BY UNANIMOUS CONSENT."

The motion to amend Ordinance 2020-45 carried by the following vote:

Yes: 9 - Bjorkman, Carpenter, Cox, Dunne, Hibbert, Johnson, Derkevorkian, Elam, and Chesley

Chesley moved to amend Ordinance 2020-45 as follows:

"20.65.010 Authority; Legislative intent; Scope

This chapter is enacted under the authority of AS 29.40. A vacation decision is a discretionary legislative land use decision. The purpose of this chapter is to establish procedures for the vacation of a platted public right-of-way, public area, or other public easement dedicated [DEPICTED] on a borough approved plat, and to provide procedures for the alteration, including removal, of platted utility easements. This chapter does not apply to easements or property owned or held by a city or the borough in their proprietary capacity which may only be extinguished through the

terms of the controlling document or applicable law. This chapter does not apply to private easements."

"20.65.020 Planning Commission recommendation on state easements

The planning commission serving as the platting authority has no authority to vacate public easements under the jurisdiction of the state. The planning commission will provide a recommendation on proposed vacations of state-managed easements within the borough. Applications to vacate a section line easement or other [PUBLIC] state-managed easement[S] [OF THE STATE] must comply with KPB 20.65.040 and will be considered in accordance with KPB 20.65.050. The applicant is responsible for all submittals required by the state. Final authority for approval and platting of the vacation of any public easement under the jurisdiction of the state rests with the state."

"20.65.050 Action on vacation application

A. Staff shall review the application and supporting materials for compliance. If the application is incomplete, staff will return it to the applicant with a written list of deficiencies to be satisfied for acceptance.

B. After acceptance of the application, staff will:

1. Send notice of the proposed vacation and the public hearing in accordance with KPB 20.10.100.
2. Prepare a staff report that evaluates the merits of the proposed vacation. Revisions to the application submitted subsequent to the preparation of the staff report and after notice is sent will not be considered at the scheduled public hearing. Any such reviews will be treated as a revised application under this chapter.

C. An accepted application shall be placed on the agenda of a regularly scheduled planning commission meeting. The public hearing on the vacation may not be more than 60 days after acceptance of the application, unless the applicant requests postponement.

D. The planning commission shall consider the merits of each vacation request. A platted dedication to public use of land or interest in land may be vacated if the dedication is no longer necessary for present or future public use. [AND IN ALL CASES THE PLANNING COMMISSION SHALL DEEM THE AREA BEING VACATED TO BE OF VALUE TO THE PUBLIC. IT SHALL BE INCUMBENT UPON THE APPLICANT TO SHOW THAT THE AREA PROPOSED FOR VACATION IS NO LONGER PRACTICAL FOR THE USES OR PURPOSES AUTHORIZED, OR THAT OTHER PROVISIONS HAVE BEEN MADE

WHICH ARE MORE BENEFICIAL TO THE PUBLIC.] In evaluating the merits of the proposed vacation, the planning commission shall consider whether:

1. The right-of-way or public easement to be vacated is being used;
2. A road is impassible or impractical to construct, and alternative access has been provided;
3. The surrounding area is fully developed and all planned or needed rights-of-way and utilities are constructed;
4. The vacation of public right-of-way provides access to a lake, river, or other area with public interest or value, and if so, whether equal or superior access is provided;
5. The proposed vacation would limit opportunities for interconnectivity with adjacent parcels, whether developed or undeveloped;
6. Other public access, other than general road use, exist or are feasible for the right-of-way;
7. All existing and future utility requirements are met. Rights-of-way which are utilized by a utility, or which logically would be required by a utility, shall not be vacated, unless it can be demonstrated that equal or superior access is or will be available. Where an easement would satisfactorily serve the utility interests, and no other public need for the right-of-way exists, the commission may approve the vacation and require that a utility easement be granted in place of the right-of-way; and
8. Any other factors that are relevant to the vacation application or the area proposed to be vacated."

The remaining subsections should be re-lettered accordingly.

"20.65.060. Title to vacated area

c. Other provisions of this subsection notwithstanding, the planning commission may determine that [ALL OF] a portion of the area proposed to be vacated should be reserved [A VACATED AREA SHOULD BE DEDICATED, FOR ANOTHER PUBLIC EASEMENT PURPOSE,] and if so, title to the area [VACATED] reserved and held for another public easement purpose remains in the borough or city, as applicable."

Dunne moved to postpone Ordinance 2020-45 to the January 19, 2021 meeting.

The motion to postpone Ordinance 2020-45 to the January 19, 2021 meeting carried by the following vote:

Yes: 5 - Cox, Dunne, Hibbert, Johnson, and Chesley

No: 4 - Bjorkman, Carpenter, Derkevorkian, and Elam

NEW BUSINESS

1. Resolutions

[2020-081](#)

A Resolution Asking the North Pacific Fishery Management Council not to Adopt the Alternative 4, which would Prohibit Commercial Fishing in the Cook Inlet Exclusive Economic Zone (Borough Assembly)

Johnson moved to adopt Resolution 2020-081.

President Hibbert called for public comment.

Robert Ruffner, Kasilof spoke in support of Resolution 2020-081.

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

Vice President Johnson declared a possible conflict of interest as he has a commercial fishing set-net permit. After consulting with legal, President Hibbert ruled no conflict existed as his permit was part of a larger group.

Assembly Member Bjorkman declared a possible conflict of interest as he has a commercial fishing drift permit. After consulting with legal, President Hibbert ruled no conflict existed as his permit was part of a larger group.

Assembly Member Bjorkman spoke in support of Resolution 2020-081.

The motion to adopt Resolution 2020-081 carried by the following vote:

Yes: 9 - Bjorkman, Carpenter, Cox, Dunne, Hibbert, Johnson, Derkevorkian, Elam, and Chesley

2. Ordinances for Introduction

3. Other

[KPB-2907](#)

Petition to Vacate Portions of Universe Avenue, Komsomol Street and Markoka Avenue Right-of-Ways and Vacate all of Planet Place Right-of-Way, Including all Associated Clearing and Underground Utility Easements and Anchor Easements as Dedicated on Terrace View, Plat HM 74-2194. The Rights-of-Way Being Vacated are Mostly Unconstructed and Located within Section 22, Township 4

South, Range 14 West, Seward Meridian, Alaska, Within the Kenai Peninsula Borough. KPB File 2019-150VR1.

[Clerk's Note: The Planning Commission approved the above referenced petition to vacate at its November 30, 2020 meeting by unanimous consent.]

Derkevorkian moved to veto the action of the Planning Commission

Dunne moved to call the question

The motion to call the question carried by the following vote:

Yes: 9 - Bjorkman, Carpenter, Cox, Dunne, Hibbert, Johnson, Derkevorkian, Elam, and Chesley

The motion to veto the planning commission decision failed by the following vote:

Yes: 1 - Bjorkman

No: 8 - Carpenter, Cox, Dunne, Hibbert, Johnson, Derkevorkian, Elam, and Chesley

PUBLIC COMMENTS AND PUBLIC PRESENTATIONS

MAYOR'S REPORT

Mayor's Report Cover Memo

[KPB-2889](#) Mayor's Report Cover Memo

1. Assembly Requests/Responses
2. Agreements and Contracts
 - a. [KPB-2890](#) Sole Source: Theater Rigging Inspection/Training with Stagecraft Industries, Inc., Portland, OR
 - b. [KPB-2891](#) Sole Source: Repairs to the SANY 215 Excavator, Solid Waste Department to Totem Equipment Supply, Anchorage, AK
 - c. [KPB-2892](#) Authorization to Award a Contract for the Nanwalek Teacherage Demolition and Disposal to East End Services, Inc.
3. Other
 - a. [KPB-2893](#) Revenue - Expenditure Report, October 2020
 - b. [KPB-2894](#) Budget Revisions, October 2020

- c. [KPB-2895](#) Joint Letter to Acting Attorney General Regarding Second Class Borough Limitations
- d. [KPB-2896](#) Status Report on Soldotna Prep Building
- e. [KPB-2897](#) 20CAR Summary Reports as of 11/19/20

ASSEMBLY COMMENTS

Vice President Johnson stated that he had been contacted by a member of the public regarding an RFP that was approved by the assembly. He wished everyone a Merry Christmas and thanked the Mayor on his work on his hard work in establishing the Western Emergency Service Area.

Assembly Member Chesley thanked the Clerk's office and the HR department for helping him get settled in his new position as assembly member. He stated he was looking forward to meeting with the Mayor.

Assembly Member Dunne stated he was happy the Assembly upheld the Planning Commissions decision on the petition to vacate. He wished everyone a happy holiday season, solstice and new year.

Assembly Member Derkevorkian stated he was hoping to see everyone in person in the new assembly chambers in January.

Assembly Member Elam stated he was looking forward to opportunities to meet in person in the new year. He wished everyone a Merry Christmas. He thanked the Mayor for meeting with him and stated he is looking forward to working with the Assembly. He thanked the Clerk's office and HR department for their on-boarding process. He thanked Mr. Johnson for bringing forward Resolution 2020-081.

Assembly Member Bjorkman emphasized personal responsibility. He stated he was disappointed in the Assembly's decision to not veto the planning commissions decision for the petition to vacate. He wished everyone a good night.

Assembly Member Cox wished everyone a Merry Christmas. He emphasized the importance of wearing a mask, washing hands and socially distancing to help slow the positive cases of COVID-19. He wished everyone a good evening.

Assembly Member Carpenter encouraged everyone to slow down and drive safely during the holiday season. He wished everyone happy holidays and a Merry Christmas.

President Hibbert thanked Assembly Member Carpenter for all his hard work as the

only assembly member for the Eastern Peninsula. He thanked the Clerk's office for their help throughout the evening. He stated his appreciation for the Assembly members and thanked them for meeting with the administration. He wished everyone a happy holiday season and encouraged everyone to drive safely.

PENDING LEGISLATION

INFORMATIONAL MATERIALS AND REPORTS

ASSEMBLY MEETING AND HEARING ANNOUNCEMENTS

1. January 5, 2021 Regular Assembly Meeting

This meeting will be held through Zoom
Meeting ID: TBD

And also in person at the
Betty J. Glick Assembly Chambers
Borough Administration Building

ADJOURNMENT

With no further business to come before the assembly, President Hibbert adjourned the meeting at 9:44 p.m.

I certify the above represents accurate minutes of the Kenai Peninsula Borough Assembly meeting of December 1, 2020.

Johni Blankenship, MMC, Borough Clerk

Approved by the Assembly: _____