

Introduced by:	Mayor
Substitute Introduced:	09/16/08
O2008-19-18 (Mayor) Substitute	See Original for Prior History
Action:	Enacted as Amended
Vote:	5 Yes, 2 No, 2 Absent

**KENAI PENINSULA BOROUGH
ORDINANCE 2008-19-18
(MAYOR) SUBSTITUTE**

AN ORDINANCE ACCEPTING AND APPROPRIATING A GRANT OF \$1,369,125 FROM THE NATURAL RESOURCES CONSERVATION SERVICE AND \$228,187.50 FROM THE DIVISION OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT AND APPROPRIATING LOCAL MATCH OF \$198,187.50 AND IN-KIND SERVICES OF \$30,000 FOR CONDUCTING A VOLUNTARY BUYOUT PROGRAM IN THE OLD MILL SUBDIVISION LOCATED IN THE SEWARD AREA

- WHEREAS,** the Natural Resources Conservation Service (NRCS) administers the Emergency Watershed Protection (EWP) program on state, tribal, and private lands by providing technical and financial assistance to local sponsoring authorities; and
- WHEREAS,** the Old Mill Subdivision located west of the Seward Highway in the Seward-Bear Creek Flood Service Area has repeatedly been flooded over the years causing extensive damage to structures and property; and
- WHEREAS,** functions of the Seward-Bear Creek Flood Service Area include providing flood protection and mitigation services; and
- WHEREAS,** buying properties that experience flooding on an almost annual basis and removing all improvements from such properties furthers the goals of the service area; and
- WHEREAS,** AS 29.35.010(8) authorizes the borough to acquire and dispose of property subject to other provisions of law; and
- WHEREAS,** AS 29.35.090 requires the assembly to establish by ordinance a formal procedure for acquisition and disposal of land and interests in land by the borough; and
- WHEREAS,** the borough assembly has enacted KPB Chapter 17.10 in compliance with this statutory requirement and that pursuant to that statute, property may be acquired by the borough; and
- WHEREAS,** NRCS has authorized a grant of \$1,369,125 to be awarded through the EWP program to the Kenai Peninsula Borough for the purpose of conducting a voluntary buyout program where properties are purchased from the owners at fair market value if the owner is willing to sell their property, and the property then would be retained by the borough subject to a conservation easement prohibiting most construction activities on the property; and

WHEREAS, the program requires the local entity to contribute a 25 percent match, or \$456,375, of the total project cost of \$1,825,500, and that the local match may be in the form of in-kind services, material, or cash; and

WHEREAS, the Division of Homeland Security and Emergency Management has provided funding of \$228,187.50 that can be used to satisfy 50 percent of the local match requirement; and

WHEREAS, at its meeting of September 15, 2008, the Seward-Bear Creek Flood Service Area Board recommended approving the use of service area funds in the amount of \$50,000 in FY2009 and FY2010 as part of the local match, with the FY2010 funds being paid to the General Fund to reimburse the fund for forward-funding the FY2010 funds; and

WHEREAS, it is estimated that approximately \$15,000 of the FY2009 and FY2010 project manager/engineer cost will be allowable as in-kind contributions as part of the local match, and these costs will be accounted for in the Seward-Bear Creek Flood Service Area operating fund; and

WHEREAS, it is the administration's intent that the remaining match requirement will be covered through the use of in-kind services such as soil sampling, appraisals, closing cost, field work cost, and other expenditures in furtherance of this project; however, for purposes of this ordinance, it is necessary for the borough's General Fund to forward-fund the remaining match needed for the project; and

WHEREAS, at its meeting of September 15, 2008, the Seward-Bear Creek Flood Service Area Board recommended enactment; and

WHEREAS, at its meeting of September 8, 2008, the planning commission recommended enactment by majority consent; and

WHEREAS, shortened hearing is requested because the borough was just informed of the grant award, and the funds must be encumbered by September 22, 2008, in order for them to be available; and

NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

SECTION 1. That the borough hereby accepts the grant of \$1,369,125 from the Natural Resources Conversation Service to be used for a buyout program to restore floodplain functions and permanently remove property from harm's way in the Old Mill Subdivision area near Seward, Alaska. Property shall only be purchased from voluntary participants.

SECTION 2. That the mayor is authorized to negotiate and execute an agreement with the NRCS substantially in the form of the agreement attached as Exhibit A to accomplish the intents and purposes of this ordinance. The mayor is authorized to negotiate a more detailed cooperative agreement which shall be brought back to the assembly for

approval prior to execution.

SECTION 3. That the mayor is authorized to accept the grant award of \$228,187.50 from the Division of Homeland Security and Emergency Management and to execute the appropriate agreements.

SECTION 4. That the sum of \$1,369,125 in Natural Resources Conservation Service grant funds is appropriated to account No. 271.21212.OMILL.49999 in the Seward-Bear Creek Flood Service Area fund.

SECTION 5. That the sum of [\$456,375] \$228,187.50, in Division of Homeland Security and Emergency Management grant funds constituting [THE REQUIRED 25 PERCENT] 50 percent of the match, is appropriated to account No. 271.21212.OMILL.49999.

SECTION 6. That the sum of \$50,000 is appropriated from the Seward-Bear Creek Flood Service Area fund balance to account 259.21212.00000.50271, transfer to Miscellaneous Grant Fund as partial match for the voluntary buyout program in Old Mill Subdivision and appropriated to account no. 271.21212.OMILL.49999.

SECTION 7. That the Borough's General Fund appropriate \$148,187.50 from fund balance to account 100.94910.00000.50271, transfer to Miscellaneous Grant Fund as the net amount necessary to accept the Natural Resources Conservation Service and the Division of Homeland Security and Emergency Management grant funds to account No. 271.21212.OMILL.49999.

SECTION 8. It is intended that the Seward-Bear Creek Flood Service Area include \$50,000 in its FY2010 budget to reimburse the Borough's General Fund for advancing funding of its FY2010 contribution to the buyout program.

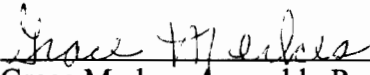
SECTION 9. That up to \$30,000 of in-kind expenditures associated with the project manager/engineer cost will be accounted for in the Seward-Bear Creek Flood Service Area operating fund.

SECTION 10. That the administration must obtain approval from the assembly by resolution before spending in excess of \$150,000 in borough funds or in-kind services for this program.

SECTION 11. That due to the length and nature of this project, the appropriations established through this ordinance shall not lapse at the end of any particular fiscal year.

SECTION 12. That this ordinance shall take effect immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 16TH DAY OF SEPTEMBER, 2008.



Grace Merkes, Assembly President

ATTEST:


John Blankenship, Borough Clerk



- Yes: Long, Martin, Smith, Sprague, Superman
- No: Fischer, Merkes
- Absent: Gilman, Knopp