



KENAI PENINSULA BOROUGH

PLANNING DEPARTMENT

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DAVID R. CAREY
BOROUGH MAYOR

MEMORANDUM

TO: Milli Martin, Assembly President
Kenai Peninsula Borough Assembly Members

THRU:  David R. Carey, Borough Mayor

FROM:  Max J. Best, Planning Director

DATE: July 21, 2009

SUBJECT: Ordinance 2009-38: Amending KPB Chapters 17.08, 17.10, and 17.50 to Clarify Procedures for Planning and Disposition of Forest Resources for Commercial and Personal Uses

The Planning Commission reviewed the subject ordinance during their regularly scheduled July 20, 2009 meeting. A motion to recommend enactment of the ordinance passed by unanimous consent.

Draft, unapproved minutes of the subject portion of the meeting are attached.

AGENDA ITEM F. PUBLIC HEARINGS

4. Ordinance 2009-38: Amending KPB Chapters 17.08, 17.10, and 17.50 to Clarify Procedures for Planning and Disposition of Forest Resources for Commercial and Personal Uses

Memorandum & Staff Report given by Marcus Mueller

PC Meeting: 7/20/09

This review and subsequent amendments is the work product of a collaborative effort between the Planning Department, the Land Management Division, the Spruce Bark Beetle Program and the Legal Department. Many hours of research and cross-referencing of other ordinances have led to the proposed changes.

Many of the changes are edits of a grammatical nature with no major policy adjustments; others attempt to set forth a clear difference between uses of land resources for personal consumption versus those of a commercial nature.

Section 1 - KPB 17.08.010

The use of the phrase harvest areas is substituted for tracts and parcels for areas to be harvested. This change is consistent with U.S. Forest Service and State of Alaska Forestry Division jargon.

Section 2 - KPB 17.1 0.150(B)

Removes gender reference.

Section 3 - KPB 17.10.170

Deletes this section as it is redundant.

Section 4 - KPB 17.10.180(A)

The referenced KPB 17.1 0.120(F) reads: "The mayor shall not sell, lease or authorize any other use or disposition of borough land to a person who is delinquent in the payment of any tax, debt or obligation owed to the borough."

This change is merely rearranging the sentence to be consistent with tense of the code. The responsibility for ensuring tax compliance is placed on the mayor, as described above, rather than the applicant. No change in the intended result is anticipated.

New language will read: "KPB 17.10.120(F) shall apply."

Section 5 - KPB 17.10.200

Title change recognizes the definition of Materials in KPB 17.10.250 as including sand and gravel.

- A. The land classification named resource extraction was replaced with resource development and resource management. This change is consistent with Ordinance 94-16.
- B. Same as above.
- D. Syntax change only - same as Section 4.
- H. Clarifies that the bond amount shall be the greater of \$100 or 10 percent of the negotiated price.

Section 6 -KPB 17.10.210

Title change to include forest resources.

- A. Land classification named resource extraction was replaced with resource development and resource management. (Ordinance 94-16).
- C. Syntax change only - same as Section 3.
- D. Slightly reworded with no change in meaning.
- E. Requires commercial buyer of forest resources to file a detailed plan of operations as required by AS 41.17.090.
- I. Clarifies that all buyers must comply with all applicable laws to continue buying forest resources.

Section 7 - KPB 17.10.250(EE) - (PP)

This only rennumbers and aphetically reorders the definitions. No change of definitions is made.

Section 8 - KPB 17.50.010

- A. Former paragraph B was moved to paragraph A as it addresses the topic in the title, the forest management plan.
- B. Changes the timber management report from an annual report to a biennial report. Also removes reference to the specific month of review by the planning commission and assembly.

Section 9 - KPB 17.50.030

- A. These changes are designed to define a difference between personal use (by permit) and commercial use (by contract).
 - 1. Adds five more cords of wood for personal use in conjunction with new paragraph 2 and changes firewood and logs to wood products. Also defines an annual personal use permit and provides that no fee shall be charged.
 Former Nos. 2 and 3, which placed limits on personal and commercial use logs and firewood, are deleted. New NO.2 designates commercial use by contract with fees established in the contract.
- C. Removes gender reference. Also removes specific land classification and includes reference to harvest area.
- D. Removes gender reference and redundant use of "discretion."

Section 10 - KPB 17.50.035(A)

Removes gender reference and corrects reference to KPB code.

Section 11 - KPB 17.50.040

Removes gender reference and all references to a permit. Changes make a contract the instrument of disposal agreement rather than permit. Also changes publication requirement to require advertising once in a newspaper of general circulation in the borough rather than in each locality.

Section 12 - KPB 17.50.050

Removes reference to permit.

Section 13 - KPB 17.50.060

Removes gender reference.

This ordinance deals with the Timber Management report that is required in the Forest Management Plan. Currently the Code requires an annual Timber Sale Plan. There has not been much timber sale activity in the last number of years. This Code changes that from an annual report to a biannual report.

END OF MEMORANDUM & STAFF REPORT

Chairman Bryson opened the meeting for public comment. Seeing and hearing no one wishing to speak, Chairman Bryson closed the public comment period and opened discussion among the Commission.

MOTION: Commissioner Foster moved, seconded by Commissioner Gross to recommend enactment of Ordinance 2009-38 amending KPB Chapters 17.08, 17.10, and 17.50.

Commissioner Foster felt the definitions listed were not being changed. He stated that the Resource Management and Resource Development were being read from the 1950's. Commissioner Foster asked if there was concern for retaining a few of the snags for habitat. Mr. Mueller replied that the definitions that Commission Foster referred to was for land classifications. Resource development and resource management are land classifications under 17.10.080. He stated that SBB was currently the administrator of the timber harvest activities.

Commissioner Foster asked if he was linking the non-renewable and renewable resources together with the sand and gravel with the timber. Mr. Mueller replied they were linking together existing provisions in Code for material extraction as they relate to what qualifies an applicant.

VOTE: The motion passed by unanimous consent.

BRYSON YES	CARLUCCIO YES	COLLINS YES	FOSTER YES	GROSS YES	ISHAM YES	JOHNSON ABSENT
LOCKWOOD YES	MARTIN YES	MCCLURE YES	MURPHY YES	PETERSEN YES	TAURIAINEN ABSENT	11 YES 2 ABSENT

AGENDA ITEM F. PUBLIC HEARINGS

5. Ordinance 2009-39: Authorizing Retention or Sale of Certain Real Property Obtained by the Kenai Peninsula Borough through Tax Foreclosure Proceedings

Memorandum reviewed by Marcus Mueller

PC Meeting: 7/20/09

Through tax foreclosure proceedings pursuant to AS 29.45.290 et seq. the borough has obtained a Clerk's Deed to the real property listed in the subject ordinance. Notice of sale will be sent to the last owners of record by certified mail within five days after first publication of the hearing on the ordinance as per AS 29.45.460(c).

A preliminary list of parcels proposed for the 2009 auction was sent for review and comment to the KPB School District, all KPB administrative departments, and KPB Service Areas. The subject ordinance authorizes the retention of 19 parcels for public purposes with recommended classifications. The ordinance also authorizes the sale of 30 parcels by public outcry auction. The number of parcels to be retained or sold will change if taxes are paid. Please reference the aerial photos of parcels to be sold listed in the ordinance.

The tax foreclosure auction is scheduled for October 24, 2009, in the Soldotna High School Auditorium.

Nine substandard lots originally proposed for retention by Ordinance 2009-39 are also being considered for the substandard lot sale under Ordinance 2009-40 (Mayor) Substitute. In order to preserve rights of the last record owner to the point of sale, the following amendments would remove the nine lots from the retention list and add them to the sale list and authorize their sale under the procedures of Ordinance 2009-40 (Mayor) Substitute as opposed to the general outcry auction.

Considerations of these amendments, which additionally relate to Ordinance 2009-40, are greatly appreciated.

- Amend Section 1 to remove Parcel Nos. 057-481-01, 057-481-27, 133-130-15, 133-140-11, 133-140-12, 133-140-13, 133-150-09, 133-150-10, and 133-150-11 from the public purpose retention list as follows: