



## **KENAI PENINSULA BOROUGH**

PLANNING DEPARTMENT

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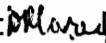
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[www.borough.kenai.ak.us](http://www.borough.kenai.ak.us)

**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:** August 12, 2009

**SUBJECT:** Ordinance 2009-45; Authorizing the Borough to Enter into a Supplemental Cooperative Agreement with the Natural Resources Conservation Service Regarding the Old Mill Subdivision Buyout Program Located in the Seward Area

The Planning Commission reviewed the subject ordinance during their regularly scheduled August 10, 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

2. Ordinance 2009-45; Authorizing the Borough to Enter into a Supplemental Cooperative Agreement with the Natural Resources Conservation Service Regarding the Old Mill Subdivision Buyout Program Located in the Seward Area

Staff Report given by Max Best

PC Meeting: 8/10/09

In September 2008, the Assembly passed an ordinance that appropriated a grant of \$1,369,125 that required a 25% local match of \$456,375 for conducting a voluntary buyout in the Seward area. This is through the Natural Resource Conservation Service (NRCS) administered by the Emergency Watershed Protection program on state, tribal and private lands by providing technical and financial assistance to local sponsoring authorities.

This ordinance presents for assembly consideration and approval a supplement to the cooperative agreement approved in September 2008 regarding the proposed buyout of certain properties in the Old Mill Subdivision located in the Seward vicinity. The Old Mill Subdivision has repeatedly been flooded over the years causing extensive damage to structure and property. The agreement is for the purpose of restoring and enhancing the floodplain's functions and values while helping landowners relocate to avoid future damages. The supplemental agreement spells out the process including notifying the eligible property owners and public, holding a public meeting to discuss the project and assist the property owners in obtaining the appropriate paperwork, ensuring that the subject property is appropriate for acquisition by conducting Phase 1 and possibly Phase 2 (hazardous material assessments), and clarifying that the purchases would be for fair market value. This is a voluntary program so those wishing to sell their properties would have a certain amount of time to submit application for sale and through criteria set up by NCRS and the Borough who would apply the criteria to determine which properties the Borough can acquire and minimize flood damage. After the properties are acquired there would be conservation easements put on the property so that no new buildings could be constructed. The old buildings would be demolished and wells would be abated per statutory requirements as well as septic systems. Most of the match money would be utilized to remove any infrastructure off the property.

The borough would then be the owner of the property but would convey to the NRCS an easement preserving the floodplain attributes but allowing the borough to have limited use of the properties as the underlying owner. Accompanying this ordinance is a copy of the proposed supplemental cooperative agreement with attachments and the original cooperative agreement signed in 2008.

The original agreement included a deadline of September 30, 2009, for completing the project. A copy of that agreement is included in the packet for your reference. As significantly more time is needed to complete the project an amendment has been prepared that would allow the project deadline to be continued to September 2011. The assembly's approval of this amendment is also sought. Your consideration and recommendation of this ordinance would be appreciated in order that the administration may proceed in cooperating with the NRCS to conduct this pilot project and attempt to mitigate flood damage in the future.

END OF STAFF REPORT

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

Commissioner Petersen asked who would be deciding on the criteria in prioritizing the properties. He also asked how that would be done. Mr. Best replied he was not sure. The Natural Resource Conservation Service (NRCS) had initially identified 10 properties. In a meeting with the last Administration it was undecided how it was going to take place. It was decided that through the agreement that NRCS had to be involved in determining which properties were high hazard areas.

**MOTION:** Commissioner Carluccio moved, seconded by Commissioner McClure to recommend enactment of Ordinance 2009-45.

Commissioner Petersen asked if the properties would be looked at differently than they were looked at the first time. Mr. Best replied yes, there would be a reapplication which would be opened up to the entire subdivision. Commissioner Petersen stated there were properties identified which were in-between properties that were selected the first time. Mr. Best stated there would be a reevaluation of the properties.

There being no further discussion or comments, the commission proceeded to vote.

**VOTE:** The motion passed by unanimous consent.

|                 |                  |                |                  |                 |                   |                    |
|-----------------|------------------|----------------|------------------|-----------------|-------------------|--------------------|
| BRYSON<br>YES   | CARLUCCIO<br>YES | COLLINS<br>YES | FOSTER<br>YES    | GROSS<br>YES    | ISHAM<br>YES      | JOHNSON<br>ABSENT  |
| LOCKWOOD<br>YES | MARTIN<br>YES    | MCCLURE<br>YES | MURPHY<br>ABSENT | PETERSEN<br>YES | TAURIAINEN<br>YES | 11 YES<br>2 ABSENT |

**AGENDA ITEM G.** ANADROMOUS STREAM HABITAT PROTECTION (KPB 21.18) - None

**AGENDA ITEM H.** VACATIONS NOT REQUIRING A PUBLIC HEARING - None

**AGENDA ITEM I.** SPECIAL CONSIDERATIONS - None

**AGENDA ITEM J.** SUBDIVISION PLAT PUBLIC HEARINGS

Chairman Carluccio reported the Plat Committee reviewed and conditionally approved 9 preliminary plats.

**AGENDA ITEM K.** COASTAL MANAGEMENT PROGRAM CONSIDERATIONS

**AGENDA ITEM L.** OTHER/NEW BUSINESS

**AGENDA ITEM M.** ASSEMBLY COMMENTS

No Assemblyperson present.

**AGENDA ITEM N.** DIRECTOR'S COMMENTS

Mr. Best reported on the following Assembly actions.

1. **POSTPONED AS AMENDED UNTIL 8/18/09:** Ordinance 2009-34; An ordinance amending KPB 17.10.180 to provide authority to permit temporary use of Borough land for up to five years and to clarify the process for denial of permit applications.
2. **POSTPONED AS AMENDED UNTIL 8/18/09:** Ordinance 2009-37 enacting KPB 17.10.185 to provide authority to enter into agreements that provide for third party management of public trails on borough land.
3. **ENACTED:** 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
4. **ENACTED SUBSTITUTE:** Ordinance 2009-39: Authorizing Retention or Sale of Certain Real Property Obtained by the Kenai Peninsula Borough through Tax Foreclosure Proceedings
5. **ENACTED AS AMENDED:** Ordinance 2009-40: Authorizing the Sale of Substandard-Sized Lots Obtained by the Kenai Peninsula Borough through Tax Foreclosure Proceedings and Retained for a Public Purpose