



KENAI PENINSULA BOROUGH

PLANNING DEPARTMENT

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DAVID R. CAREY
BOROUGH MAYOR

MEMORANDUM

TO: Pete Sprague, Assembly President
Kenai Peninsula Borough Assembly Members

THRU: *David R. Carey* David R. Carey, Borough Mayor

FROM: *Max J. Best* Max J. Best, Planning Director

DATE: April 29, 2010

SUBJECT: Ordinance 2010-17; An ordinance extending the sunset provision of Ordinance 2009-09 Substitute, amending provisions of KPB Chapter 21.06 regulating flood hazard areas in the Seward Bear Creek Flood Service Area, and confirming the administration's efforts to further the intent of Resolution 2009-070 to pursue various solutions to facilitate moving residents voluntarily away from flood hazard areas.

The Planning Commission reviewed the subject Ordinance during their regularly scheduled April 26, 2010 meeting. A motion passed by majority consent to recommend approval of the ordinance. (*Bryson, Yes; Carluccio, Yes; Collins, Yes; Ecklund, Yes; Foster, Yes; Gross, Yes; Isham, Yes; Johnson, Yes; Lockwood, Yes; Martin, Yes; Murphy, Yes; Petersen, No; Tauriainen, Yes*)

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

sunset date will allow affected departments (Planning, Roads, River Center) time to amend Borough code to keep the necessary and functioning safeguards based on the SMFDA in place. The new FIRM maps are scheduled to be released in the near future, and extension of the ordinance sunset date will give staff and the community time to assess the new maps for coverage of the SMFDA. It may also give the Administration time to come up with recommended solutions to enable movement of residents to safer areas.

Additionally, during the year that Ordinance 2009-09 was in effect, the Donald E. Gilman River Center and Planning Department recognized some provisions of Ordinance 2009-09 that needed to be revised, and recommended the amendments contained in Section 2 of this ordinance. KPB 21.06.045(B)(2) is added because (B)(1) did not provide for exemptions in the situations described in (B)(2) where it would be impossible to get a permit even if measures could be taken to assure the development would be reasonably safe. KPB 21.06.045(C)(1) failed to specify that the primary structure, which must be built at least two feet above the elevation, included the crawl space, the basement, and similar structures except the supports. Additionally, the prior version did not clarify that people could build garages below the base flood elevation provided that there were holes in the walls enabling floodwater to flow through. This ordinance clarifies that such structures may be built subject to the applicable standards in KPB 21.06.045(C)(3). Further, in paragraph D, the ordinance clarifies that developments in the SMFDA in the minimum flood corridor require a permit based on best management practices to minimize adverse impacts to the properties rather than being subject to the stringent requirements of KPB 21.06.050(C) that prohibit all development, fill, additions, etc. unless a certified registered professional engineer certifies that no increase in flood levels would result from the development. Such a certification is virtually impossible to obtain in the Seward area.

Staff recommends that the Planning Commission recommend the Assembly to adopt Ordinance 2010-17, thereby extending the sunset date of Ordinance 2009-09 (Substitute).

END OF 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 Gross moved, seconded by Commissioner Lockwood to recommend approval of Kenai Peninsula Borough Ordinance 2010-17, An ordinance extending the sunset provision of Ordinance 2009-09 Substitute, amending provisions of KPB Chapter 21.06 regulating flood hazard areas in the Seward Bear Creek Flood Service Area, and confirming the administration's efforts to further the intent of Resolution 2009-070 to pursue various solutions to facilitate moving residents voluntarily away from flood hazard areas.

Commissioner Petersen recused himself from voting on this item since he voted on the ordinance at the taskforce meeting. Chairman Bryson asked for staff's comments. Mr. Best didn't believe a recommendation onto the Assembly wasn't out of the Commissioner Petersen's prevue on this board. He felt Commissioner Petersen could vote on this motion. Chairman Bryson ruled there was no conflict of interest.

There being no further discussion or comments, Chairman Bryson called for a roll call vote.

VOTE: The motion passed by majority consent.

BRYSON YES	CARLUCCIO YES	COLLINS YES	ECKLUND YES	FOSTER YES	GROSS YES	ISHAM YES
JOHNSON YES	LOCKWOOD YES	MARTIN YES	MURPHY YES	PETERSEN NO	TAURIAINEN YES	12 YES 1 NO

AGENDA ITEM F. PUBLIC HEARINGS

- Ordinance 2010-18; Ordinance authorizing a subsurface oil & gas lease to Marathon Alaska Production, LLC, in the Ninilchik Unit at 12.5 percent royalty under Township 1 South, Range 13 West, Seward Meridian, Section 7 in Tract "A" of Aurora Vista Subdivision and the minerals underlying a portion of the Sterling Highway right-of-way