



# KENAI PENINSULA BOROUGH

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DALE BAGLEY  
MAYOR

## MEMORANDUM

**TO:** Gary Superman, Assembly President  
Kenai Peninsula Borough Assembly Members

**THRU:** *DLB* Dale L. Bagley, Borough Mayor

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

**DATE:** August 10, 2005

**SUBJECT:** Resolution 2005-*078*: Classification of Borough Land in the Seward, Anchor Point, and Ridgeway areas, pursuant to KPB Code of Ordinances, Chapter 17.10.080.

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Committee Land  
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The Planning Commission reviewed the subject Resolution during their regularly scheduled August 8, 2005 meeting.

An amended motion removing the two Seward parcels, 144-010-47 and 144-010-48, from the classification passed by majority consent. (Bryson, No; Clark, No; Foster, Yes; Gross, Yes; Heimbuch, Yes; Hohl, Yes; Hutchinson, Yes; Isham, Yes; Johnson, Absent; Martin, No; Massion, Yes; Petersen, Yes; Tauriainen, Absent)

A motion to approve the unnumbered resolution passed by unanimous consent.

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

**AGENDA ITEM F. PUBLIC HEARINGS**

2. Resolution 2005-\_\_\_\_; Classification of Borough Land in the Seward, Anchor Point, and Ridgeway areas, pursuant to KPB Code of Ordinances, Chapter 17.10.080.

Staff Report read by Paul Ostrander

PC Meeting: August 8, 2005

**Petitioner:** Kenai Peninsula Borough, Alaska.

**Basis For Classifications:** Borough land must be classified prior to disposal pursuant to KPB Code of Ordinances, Chapter 17.10.080. Parcels appropriate for disposal will be considered for the borough's 2005 land sale.

**Description of Borough Parcels and Proposed Classifications:**

PARCEL	GENERAL LOCATION	LEGAL DESCRIPTION	ACRES	PROPOSED CLASSIFICATION
058-032-31	Ridgeway	N½NE¼, Section 23, T5N, R10W, Seward Meridian, Alaska.	80.00	Preservation and Residential (as shown on the proposed classification map)
169-132-13	Anchor Pt.	NE¼NW¼ Section 14, T5S, R15W, Seward Meridian, Alaska.	40.00	Rural
144-010-47	Seward	Tract 1, Exit Glacier Subdivision No. 2, filed as Plat No. 2004-10, Seward Recording District.	10.00	Preservation & Commercial (as shown on the proposed classification map)
144-010-48	Seward	Tract 2, Exit Glacier Subdivision No. 2, filed as Plat No. 2004-10, Seward Recording District.	10.46	Preservation & Commercial (as shown on the proposed classification map)

**Public Notice:** Public notice was published in the Peninsula Clarion, June 26, 2005 and July 3, 2005. Notice was sent by regular mail to all owners and/or leaseholders of record within one-half mile of the land proposed for classification. The notice consists of a cover letter, map, and list of land classification definitions. Public comments were requested to be returned by 5:00 p.m., July 11, 2005.

PARCEL No.	LEGAL DESCRIPTION	ACRES	PROPOSED CLASSIFICATION
058-032-31	N½NE¼, Section 23, T5N, R10W, Seward Meridian, Alaska.	80.00	Preservation and Residential (as shown on the proposed classification map)

**Overview:** Located in the Mackeys Lakes area of Ridgeway, this is a large acreage parcel. Road access and utilities are available.

**Findings of Fact:**

- Title / Status: The borough received title to subject land by State patent.
- Land Use: No comprehensive land use plan has been developed for this area. Surrounding land use includes residential, institutional (Solid Rock Ministries), gravel pits, and undeveloped land. Surrounding development includes single-family homes.
- Ownership: Surrounding land ownership includes private and native land.
- Access: Access to this parcel is gained from the north along Derk's Lake Road, which is also a section-line easement. Approximately 800 feet of Derk's Lake Road is maintained by the borough. A section-line easement also runs along the parcel's east boundary. Raspberry Street, Pine Street, Michael Street, and Mill Avenue can provide access from the south. These roads are not improved.
- Utilities: Electric, telephone, and gas is available. No other utilities are available at this time. This parcel is subject to an electric transmission line right-of-way, 20 feet in width, that parallels the north boundary. The parcel is also subject to a 50-foot wide pipeline right-of-way. This pipeline crosses the southeast corner of the

parcel.

6. **Topography:** Soldotna Creek runs the entire length of the property, from east to west. Spruce trees are predominate. Portions of this parcel have potential for development. These areas include a strip of land approximately 200 feet wide adjacent to Derk's Lake Road as well as the south 600± feet of the parcel. The predominate soil type for these areas is "Soldotna Silt Loam" and is generally characterized as well-drained soil, according to the Soil Survey: Kenai-Kasilof Area Alaska.
7. **Special Features:** Soldotna Creek runs through this parcel. The State patent reserved a ten-foot wide public pedestrian easement along both banks of the Creek. Soldotna Creek is subject to anadromous stream habitat protection pursuant to KPB Code of Ordinances, Chapter 21.18.
8. **Public Comments:** As of the writing of this report one written comment was received. This comment was opposed to the proposed residential classification and wished to recommend a preservation classification.
9. **Department / Agency Comments:** As of the writing of this report no written comments were received.

**Highest and Best Use:** Residential / Recreational is the estimated highest and best use, per KPB Assessing Department.

**Summary:** A Residential classification is appropriate on the upland portions of this parcel. Much of the surrounding land use is residential. A Preservation classification is appropriate where wetlands exist. The attached map showing the classification areas is for conceptual purposes only. The actual preservation areas can be determined at the time a wetland determination is made by the Corp. of Engineers or qualified professional.

PARCEL No.	LEGAL DESCRIPTION	ACRES	PROPOSED CLASSIFICATION
169-132-13	NE¼NW¼ Section 14, T5S, R15W, Seward Meridian, Alaska.	40.00	Rural

**Overview:** Located in the Anchor Point area, this is a large acreage parcel. Road access has not been constructed. No utilities are available.

**Findings of Fact:**

1. **Title / Status:** The borough received title to subject land by State patent. A fuel reduction timber harvest to mitigate hazard trees (beetle killed trees) was authorized by the borough and completed in 2003 with the replanting of spruce seedlings.
2. **Land Use:** No comprehensive land use plan has been developed for this area. This parcel is suitable for a material site as indicated by the Anchor Point Materials Site Investigation report of 1983. Surrounding land use includes a material site to the east, owned by Alaska Roadbuilders. The rest of the surrounding properties are undeveloped.
3. **Ownership:** Surrounding land ownership includes private and borough land.
4. **Access:** Platted access to this parcel is provided by Ridge Line Street and Kathryn Avenue. Both right-of-ways are 30 feet wide with no developed road. The north boundary of this parcel abuts a section-line easement.
5. **Utilities:** Telephone and electric utilities are approximately 2,400 feet away. This parcel is subject to a 100-foot wide easement for an electric transmission line that runs diagonally through the parcel. No other utilities are available.
6. **Topography:** Topography varies from flat areas to small hills. Parcel is treed mostly with spruce. A wetland area exists near the middle of this parcel along the power line corridor.
7. **Special Features:** An overhead power transmission line runs diagonally through the parcel. (100-foot wide easement)
8. **Public Comments:** As of the writing of this report no comments have been received.
9. **Department / Agency Comments:** As of the writing of this report two written comments were received.
  - **Anchor Point Advisory Planning Commission (APAPC):** At its January 11, 2003 meeting the APAC recommended a classification of Rural with consideration for Residential.
  - **KPB Spruce Bark Beetle Office:** This parcel was part of a fuel removal activity under Ordinance 2000-50.

**Highest and Best Use:** Residential / Recreational is the estimated highest and best use per KPB Assessing Department.

**Conclusion:** Because of the remote location of this parcel, its potential for material extraction, and the surrounding land use mostly vacant, a Rural classification is compatible with the surrounding area. Although material extraction is allowed

under a Rural classification a permit would be required from the Borough Planning Department.

PARCEL No.	LEGAL DESCRIPTION	ACRES	PROPOSED CLASSIFICATION
144-010-47	Tract 1, Exit Glacier Subdivision No. 2, filed as Plat No. 2004-10, Seward Recording District.	10.00	Commercial & Preservation
144-010-48	Tract 2, Exit Glacier Subdivision No. 2, filed as Plat No. 2004-10, Seward Recording District.	10.46	Commercial & Preservation

**Overview:** Located in the Seward area these parcels have developed road access with utilities available.

**Findings of Fact:**

- Title / Status:** The borough has received a State quit claim deed for subject land as it was originally selected by the borough for a school, solid waste site, and recreation area. The land was subsequently subdivided into tracts by Exit Glacier Subdivision No. 2. These tracts are currently classified as Preservation per Resolution 2004-077.
- Land Use:** No comprehensive land use plan has been developed for this area. Surrounding land use includes commercial, residential, and undeveloped land. Borough land across Old Exit Glacier Road was classified as Recreational per KPB Resolution No. 96-039. Surrounding development includes the Kenai Fjords National Park maintenance facility, two commercial businesses for lodging and the Ididaride (dog sled rides).
- Ownership:** Surrounding land ownership includes borough and private land.
- Access:** Access is gained from Old Exit Glacier Road, an 83 foot right-of-way. This is a gravel road, maintained by the borough.
- Utilities:** Electric and telephone service are approximately 300± feet from Tract 1 and 700± feet from Tract 2.
- Topography:** Topography is relatively flat. Wetlands cover a portion of this area. Tracts 1 and 2 have potential for development along Old Exit Glacier Road.
- Public Comments:** As of the writing of this report two written comments were received; one expressed concern for having the parcels remain as preservation and the other suggested that a residential classification would be more suitable.
- Department / Agency Comments:** As of the writing of this report no written comments were received.

**Highest and Best Use:** Residential / Recreational is the estimated highest and best use, per KPB Assessing Department.

**Summary:** The KPB Assessing has recognized these parcels as having potential for development with a highest and best use determination of residential / recreational. With portions of Tract 1 and 2 being developable, fronting on a main roadway, and other commercial businesses in the area, a Commercial classification is appropriate for those portions that are developable. A Preservation classification is appropriate where wetlands exist. The attached map showing the classification areas is for conceptual purposes only. The actual preservation areas can be determined at the time a wetland determination is made by the Corp. of Engineers or qualified professional. The borough submitted a request for a wetland determination to the Corp of Engineers in May of 2005. The response from the Corp essentially stated that a permit would be needed prior to initiation of work entailing a discharge or placement of dredged and/or fill material into the wetlands. The wetland determination can be coordinated at the time of development between a developer and the Corp. of Engineers.

**Conclusion:** A Commercial and Preservation classification is appropriate for these parcels and is compatible with the surrounding area.

**STAFF RECOMMENDATION:** Based on the findings of fact, and conclusions, KPB staff recommends that the KPB Planning Commission recommend adoption of the resolution classifying subject parcels as follows:

PARCEL	GENERAL LOCATION	LEGAL DESCRIPTION	ACRES	PROPOSED CLASSIFICATION
058-032-31	Ridgeway	N½NE¼, Section 23, T5N, R10W, Seward Meridian, Alaska.	80.00	Residential

PARCEL	GENERAL LOCATION	LEGAL DESCRIPTION	ACRES	PROPOSED CLASSIFICATION
169-132-13	Anchor Pt.	NE¼NW¼ Section 14, T5S, R15W, Seward Meridian, Alaska.	40.00	Rural
144-010-47	Seward	Tract 1, Exit Glacier Subdivision No. 2, filed as Plat No. 2004-10, Seward Recording District.	10.00	Preservation & Commercial (As shown on the proposed classification map)
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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 and opened the discussion among the Commission.

**MOTION:** Commissioner Martin moved, seconded by Commissioner Isham to recommend adoption of Resolution 2005-\_\_\_\_; Classification of Borough Land in the Seward, Anchor Point, and Ridgeway areas, pursuant to KPB Code of Ordinances, Chapter 17.10.080.

Commissioner Massion asked what the current classification was on these parcels. Mr. Ostrander stated that they are presently classified as Unclassified.

Commissioner Petersen asked about the classification of the Exit Glacier parcels. Chairman Bryson stated Mr. Ostrander would like to restate that. Commissioner Petersen asked why they are being classified as Commercial and not Residential.

Ms. Ostrander stated he did misspeak. The two Exit Glacier parcels are currently classified as Preservation. Last year, the Administration proposed the classification of Commercial on both of these properties. Through the process they were classified as Preservation and not as Commercial. The primary concern by the Commission and the Assembly was the wetland areas on these parcels. The headwaters of Clear Creek are in that vicinity and exist on Tract 3. Last year, the Administration proposed the classification of Preservation so it was classified as Preservation. The reason for classifying the two parcels, Tract 1 and Tract 2 Commercial is because of the existing commercial properties in the area. The administration felt Commercial was appropriate in this case due to the B&B's, Lodging and Tourism industries in the area. In addition, the original person who wanted to see this parcel offered for sale is directly to the north that runs a lodging operation. They also felt Commercial was appropriate because they knew who the potential buyer was. The difference between this year's proposed classification and last year is that last year they did not propose any Preservation for this parcel. Mr. Ostrander has attempted to utilize just those portions that are upland for development in the areas that are affected by Clear Creek, which would be preserved by classification. To add teeth to that, the Administration is also recommending there be a deed restriction that will prohibit development within that preservation area.

Commissioner Foster asked if the Flood Service area Board of the Seward Bear Creek was aware of the deed restriction. Mr. Ostrander stated that they have not discussed the deed restriction with the Flood Service area. Commissioner Hohl asked what was given as notification to the flood service area. Mr. Ostrander stated he believed the flood service area received the packet through the Kenai River Center. Commissioner Hohl asked if they know about the Deed Restriction. Mr. Ostrander stated no, because the Deed Restriction is not part of this packet. It is an amendment that will be presented to the Assembly on August 16, 2005. Commissioner Foster felt that without a deed restriction being a done deal he couldn't support this without the flood service area looking at it. The flood service area board was formed to be an overseer of this area. Commissioner Hohl agreed with Commissioner Foster and asked if this could be postponed until the flood service area can address this.

Chairman Bryson stated that there are a number of parcels involved in this. He asked if the Commission would like to separate these different items. Commissioner Heimbuch stated that she was going to ask if these parcels could be separated. Commissioner Hohl wasn't sure the staff would prefer that they be separated or a postponement given on the whole item. Mr. Ostrander stated that it would not make any difference to the flood service area if there were a deed restriction or not. Their concern is flood related. The deed restriction speaks only to the preservation of the wetland

areas. He felt that are completely separate issues. It is critical that the parcels that do get approved for the sale move forward otherwise they will not be able to make the fall land sale.

**AMENDMENT:** Commissioner Hohl moved, seconded by Commissioner Foster to remove the Seward parcels 144-010-47 and 144-010-48 from the reclassification.

Chairman Bryson asked for discussion.

Commissioner Hohl stated she supports the Flood Service Board's decision.

Hearing no further discussion, Chairman Bryson called for a roll call vote.

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

BRYSON NO	CLARK NO	FOSTER YES	GROSS YES	HEIMBUCH YES	HOHL YES	HUTCHINSON YES
ISHAM YES	JOHNSON ABSENT	MARTIN NO	MASSION YES	PETERSEN YES	TAURIAINEN ABSENT	8 YES 3 NO 2 ABSENT

Chairman Bryson verified that the two Seward parcels were postponed but the other parcels moved forward.

Chairman Bryson asked for discussion on the main motion of reclassification. Hearing no discussion, Chairman Bryson called for a roll call vote.

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

BRYSON YES	CLARK YES	FOSTER YES	GROSS YES	HEIMBUCH YES	HOHL YES	HUTCHINSON YES
ISHAM YES	JOHNSON ABSENT	MARTIN YES	MASSION YES	PETERSEN YES	TAURIAINEN ABSENT	11 YES 2 ABSENT

AGENDA ITEM F. PUBLIC HEARINGS

3. Ordinance 2005-31; An ordinance authorizing the sale of ten parcels of Borough Land by Sealed Bid.

Staff Report by Paul Ostrander

PC Meeting: 8/8/05

KPB 17.10.070(A) directs that two land sales be conducted each year. One sale is the tax foreclosure outcry auction. The other sale is a competitive market value sale. The subject ordinance recommends ten parcels for sale by sealed bid. Maps showing the location of each parcel are attached.

The bid opening will be October 13, 2005. The brochure will delineate the parcels and explain the sealed bid procedures. Parcels will have the front property corners marked and sale signs posted where practicable.

Parcels that do not sell by sealed bid will be added to the on-going over-the-counter land sale authorized by Ordinance 2001-31, Section 5.

Amendment of **Section 1** of Ordinance 2005-31.

ASSESSOR PARCEL	GENERAL LOCATION	LEGAL DESCRIPTION	ACRES	CLASSIFICATION	MINIMUM BID
131-070-54	K-Beach	Lot 3, Beach View Subdivision, according to Plat No. 2004-51, Kenai Recording District.	5.534	Residential	\$147,000