

Kenai Peninsula Borough

Flood Plain Task Force

July 8, 2009

6:00 PM



**Council Chambers, Seward City Hall
401 Adams Street, Seward**

Kenai Peninsula Borough

Flood Plain Task Force

July 8, 2009 - 6:00 p.m.

Seward City Hall, 401 Adams Street, Seward

Ron Long
Assembly Member

A. Welcome

Charlie Pierce
Assembly Member

B. Public Comment

Kevin Lyon
Capital Projects

C. June 24, 2009 Meeting Summary

Dan Mahalak
Capital Projects

D. Recommendation Discussion

Jane Gabler
Kenai River Center

1. Ordinance 2009-09

Holly Montague
Legal Department

2. Subdivision Requirements

Scott Walden
Office of Emergency
Services

E. Flood Plain Task Force Resolutions

Todd Peterson
Planning Commission

1. Resolution 2009-04: A Resolution Recommending that Various Solutions Including Land Purchase, Sale and Trade be Pursued in Order to Facilitate Moving Citizens within the Seward-Bear Creek Flood Service Area from Flood Hazard Areas

Sue McClure
Planning Commission

2. Resolution 2009-05: Recommending that the Borough Assembly Authorize a Channel Migration Zone (CMZ) Analysis and Suitability Mapping Project within the Seward-Bear Creek Flood Service Area

Max Best
Planning Department

Ron Wille
Road Service Area
Board

F. Review of KPB Flood Plain Task Force Items

Bill Williamson
Seward Bear Creek
Flood Service Area

1. Ordinances
- a. Ordinance 2009-29 (Enacted)
 - b. Ordinance 2009-30 (Enacted)

Randy Stauffer
Seward Bear Creek
Flood Service Area

2. Resolutions
- a. Resolution 2009-044 (Adopted)
 - b. Resolution 2009-058 (Hearing 07/07/09)
 - c. Resolution 2009-060 (Hearing 07/07/09)
 - d. Resolution 2009-061 (Hearing 07/07/09)

Jim McCracken
Public Representative

Robert Hicks
Public Representative

Matt Gray
Public Representative

Christy Terry
City of Seward
Planning Department

G. General Discussion and Questions

Staff:

H. Task Force Meeting and Announcements

Shellie Morgan
Deputy Clerk

I. Adjournment

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June 24, 2009 Meeting Summary

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FPTF Resolution 2009-04: Recommending that Various Solutions Including Land Purchase, Sale, and Trade be Pursued in Order to Facilitate Moving Citizens within the Seward-Bear Creek Flood Service Area from Flood Hazard Areas

Land Management recommended amendments to FPTF R2009-04

FPTF Resolution 2009-05: Recommending that the Borough Assembly Authorize a Channel Migration Zone (CMZ) Analysis and Suitability Mapping Project within the Seward-Bear Creek Flood Service Area

KPB Ordinance 2009-29

KPB Ordinance 2009-30

KPB Resolution 2009-044

KPB Resolution 2009-058

KPB Resolution 2009-060

KPB Resolution 2009-060

KPB Resolution 2009-061

Kenai Peninsula Borough

Flood Plain Task Force

Meeting Summary

June 24, 2009 - 6:00 p.m.

Regular Meeting

Seward City Hall, 401 Adams Street, Seward

CALL TO ORDER

A regular meeting of the Flood Plain Task Force was held on June 24, 2009, in the Upstairs Conference Room of Seward City Hall, Seward, Alaska. Chair Long called the meeting to order at 6:00 p.m.

There were present:

Ron Long, Chair
Dan Mahalak
Jane Gabler
Christy Terry
Todd Petersen
Sue McClure
Bill Williamson

Colette Thompson (via teleconference)
Max Best
Ron Wille
Randy Stauffer
Jim McCracken
Matt Gray

Absent:

Charlie Pierce, Vice Chair (excused)
Kevin Lyon (excused)
Scott Walden (excused)
Robert Hicks (excused)
Kevin Lyon (excused)

Also in attendance:

Shellie Morgan, Deputy Clerk
Mary Toll, KPB Planning

WELCOME

Chair Long thanked everyone for attending the Flood Plain Task Force Meeting.

The following item was added to the agenda.

- Postponed Flood Plain Task Force Resolution 2009-01.

PUBLIC COMMENT - None.

JUNE 10, 2009 MEETING SUMMARY

RANDY STAUFFER PRESENTATION - National Flood Plain Management Conference

Mr. Stauffer said he attended the Association of Floodplain Managers 33rd Annual National Conference June 7 - 12, 2009, in Orlando Florida. He felt the multiple work shops and educational sessions he attended were beneficial. He said Major General Don T. Riley, U.S. Army Deputy Commanding General and Deputy Chief of Engineers, U.S. Army Corps of Engineers was a keynote speaker during one of the luncheons, and General Riley had addressed the U.S. Army Corps of Engineers new mission statement which no longer included any reference to the word "building," the new statement included new wording relating to, "helping local governments with their green infrastructure."

Mr. Stauffer noted an additional session given by a Federal Emergency Management Agency (FEMA) representative indicated that FEMA was trying to re-allocate responsibilities back to the state and local levels of government, and the conference theme supported that direction.

Mr. Stauffer said FEMA did not have funds available to recover from another disaster like Katrina, and were no longer interested in restoring structures after a disaster, under the pretense if it was damaged during an event it was obviously was not built well enough in the first place.

Mr. Stauffer noted that FEMA was moving away from the Flood Insurance Rate Maps (FIRM) concept and floodplain management, and moving toward a Risk Map concept. He said Risk Maps include all hazards not just flood hazards, the concept includes identifying the risks, assessing the risk, communicating the risk to the public, and mitigating the risk. He said it was intended to reduce the losses to life and property.

Mr. Stauffer said FEMA was looking into mitigation rather than coming in after a disaster and paying for recovery. He said one particular session was directed specifically to how local and state governments can update their all-hazard plans to be FEMA compliant. He said in 2004 FEMA implemented requirements for entities to have an all hazard plan in order to be eligible for Federal Assistance. He said the plans were required to be updated on a regular schedule.

Mr. Stauffer said it was apparent that Federal funds were available in the form of various types of grants, for specific types of projects, mostly in high risk areas. He said small communities were not as likely to get funding, it was more for large, financially high risk areas.

Mr. Stauffer also noted that it seemed highly populated, and high risk areas had received new FIRM maps over a year ago, showing another example of where FEMA was placing their priorities, since they were an insurance company and had high risk possibilities.

Mr. Gray asked if there were all-hazard risk plans available. Ms. Terry said the City of Seward had one. Mr. Best said the Kenai Peninsula Borough (KPB) had one also.

Chair Long noted the Borough's all hazard plans were continuously being updated. He said it was not surprising to see FEMA transferring the responsibility back to the state and local government, he also noted that it did not sound like FEMA was transferring funds along with those responsibilities.

Mr. McCracken asked if the map coming in September from FEMA were only going to be FIRM maps, and not address any other hazard issues. Mr. Stauffer said yes.

Mr. Stauffer said the Seward-Bear Creek Flood Service Area (SBCFSA) mitigation plan was FEMA approved; however, FEMA would no longer be approving single project plans, it would have to be part of an all-hazard plan.

(06:27:24)

FLOOD PLAIN TASK FORCE RESOLUTION - 2009-01 Navigability

Chair Long said he would like to move forward with postponed Flood Plain Task Force (FPTF) Resolution 2009-01 as there had been no progress in pursuing the navigability determination administratively, and noted the proposed change nationally removing the word "Navigable" from the Clean Water Act, which basically put Congress in control of determining how state and local governments were able to deal with a variety of issues involving crossing a property line boundaries.

Mr. McCracken asked for confirmation that the letter KPB was operating under regarding navigability was actually only a letter and not an actual determination. Ms. Thompson said yes.

Chair Long felt it was time to proceed and get a navigability determination, he said if it were a determination that KPB did not agree with, it could then be challenged.

Mr. Mahalak agreed it was time to proceed.

The FPTF approved Flood Plain Task Force Resolution 2009-01 without objection.

(06:51:18)

RECOMMENDATIONS TO THE ASSEMBLY

Chair Long felt it was time to determine which actions would be appropriate for the Assembly, SBCFSA, or Planning Commission. He wanted to determine what issues were legislative, what issues should be handled by the SBCFSA .

Mr. McCracken noted the Task Force and SBCFSA were established for flood oriented issues, and the actions should stay within those boundaries.

Chair Long said he did not want to be spending large amounts of time writing Resolutions that could be handled by the SBCFSA.

Mr. Willie felt the land availability issue would be one that was legislative. He felt a request should be sent to the Assembly requesting the option be further pursued through the KPB Land Management Department and the Assembly.

Mr. Stauffer said a recommendation regarding Ordinance 2009-09 would be legislative.

(06:56:01)

LAND AVAILABILITY

Chair Long said an alternative had to be provide as an incentive to get property owners within the flood hazard area to move outside of it, without it the property owner would be bearing all of the burden. He said language needed to be developed on what type of land trade options could be utilized.

Mr. Peterson felt the land trade options should only be available to privately individual owned land, he did not see this as a process to be used with developers.

Chair Long said previous discussion indicated that an equal acreage trade would not be a viable option and the trades would be based on value for value.

Ms. Terry felt if someone owned one residential acre, it may be the right incentive to relocate out of the flood hazard area if an equal sized acre was available.

Ms. Toll said a developed lot should be first priority in the land trade option, over the non-developed lots.

Mr. McCracken said repetitive loss areas should be a priority.

Mr. Best noted when considering acreage traded for equal acreage, it also had to be considered what costs were being accumulated to the Borough for repairs to the roads. He said there was value to the Borough when the road did not have to be reconstructed on a regular basis.

Chair Long felt that there was common good in taking people out of harms way, by moving them. He said a legitimate public purpose was needed for making lands available for this use, unlike previous Borough land disposals which were based on the highest sale price.

(07:07:00)

Chair Long requested a draft Resolution for the next Task Force meeting to the effect of: "The Assembly establish a policy that Borough owned lands or Borough acquired lands in the area of concern of this Task Force could and should be put to work in getting people out of harms way / repetitive loss areas, and getting them into more stable posture for not only their good, but the rest of the Borough as well."

McCracken requested a time line be assigned with the Resolution.

Mr. Wille requested the Resolution be assigned to a specific Borough Department, such as Land Management, he said land outside of the Seward area should also be available for trade options.

(07:10:45)

RECOMMENDATION ON ORDINANCE 2009-09

Mr. Stauffer felt the Task Force needed to make a recommendation to the KPB Assembly as to whether Ordinance 2009-09 should be modified, allowed to sunset, or continued as is. He said if there was no better options than Ordinance 2009-09, the sunset date should be removed.

Mr. Peterson said he did not want to see Ordinance 2009-09 continued and it should be allowed to sunset.

Mr. Mahalak was unsure at this time as how Ordinance 2009-09 should be addressed. He noted there were a few properties that had been affected by it, and some action had to be taken on them, he said the data did now exist and was archive-able and should be used to the best of the Borough's abilities.

Mr. McCracken said Ordinance 2009-09 should be allowed to sunset, and SBCFSA should be the one commenting; because, SBCFSA was an elected body and should be the ones making the recommendation to the Assembly.

Mr. Best said he wanted to address what was not working with Ordinance 2009-09.

Ms. Gabler said she would like more detail in Ordinance 2009-09, it was left open for to many interpretations. She said it needed to be more specific for the people who were trying to build, she said she did not want to see it sunset completely, it should be continued in some format, as it was a good tool for proper development.

Mr. Gray felt the SBCFSA should participate in the recommendation, and felt Ordinance 2009-09 may be continued for only one year, with the SBCFSA making changes to Ordinance 2009-09.

Mr. Wille asked how many property owners had contacted the Kenai River Center (KRC) due to Ordinance 2009-09. Ms. Gabler said it was about five.

Mr. Wille asked if the notifications being sent by the KRC were going to continue after Ordinance 2009-09 sunset. Ms. Gabler said yes.

Mr. Wille felt if the information was continuing to be sent out that would be very beneficial.

Ms. Gabler noted it had been very helpful to have the different map layers available to show the people which floods affected their property.

Chair Long said the educational component had caused people to consider the hazards, and he wanted to make sure the information remained available. He noted it was nice to see responsible actions being taken outside of the FIRM map areas.

Mr. Wille recommended a list be compiled of the parcels affected by Ordinance 2009-09, so the Assembly decision would be based on what had actually happened.

Chair Long stated if he felt the Task Force was within its responsibility to make a recommendation to the Assembly regarding Ordinance 2009-09.

Mr. Stauffer said regardless of the Task Force's recommendation if the City and Borough choose to stay in the NFIP program they would have no choice but to accept the FIRM maps.

Mr. McCracken said there was still a lot of information that had not yet arrived and it was too soon to make an informed decision regarding the status of Ordinance 2009-09.

Mr. Gray said additional planning could replace what Ordinance 2009-09 was doing.

The Task Force postpone further discussion regarding recommendations on Ordinance 2009-09.

SUITABILITY MAPPING

Mr. Gray said the need for more planning effort was apparent, and felt a recommendation to the Assembly to pursue this type of project was in order. He said a program like suitability mapping would assist the SBCFSA in doing their job, and noted it was a scientific process and not regulatory.

Mr. Peterson asked who would be doing the mapping for the project. Mr. Gray said it would have to be put out as a request for proposal.

Chair Long said there was enough standards in the existing flood plain ordinance that it would look like a building code.

Mr. McCracken asked for a definition of suitability mapping. Mr. Gray said it was the process of using GIS layers to identify as many of the natural features of the landscape as possible.

Mr. McCracken stated the scope of the Task Force was for addressing flood issues only. He felt suitability mapping was important; however, it was beyond the scope of this Task Force.

Mr. McCracken asked if the SBCFSA had a master plan that included CMZ Lite. Mr. Williamson said they had a master plan. Mr. Stauffer noted the board approved establishment of a master plan, it did not specify CMZ Lite.

Mr. Wille said if the suitability mapping was related to the flooding it would then be valid. He noted that originally he thought the mapping would regulate what could not be done; however, it would also be providing information on what could be done also.

Chair Long noted the similarities in the recommendations of this Task Force and the one from 1987.

Chair Long requested everyone take all of the ideas and combined them into a plan.

Mr. Mahalak said the Borough subdivision codes definitely needed to be reviewed. He would like the Assembly to assign someone to review the code in detail.

Chair Long said he did not want to assume no mitigation was going to be taking place when looking at future options. He said the projections being made were based on a totally at will stream, and he felt that was an assumption that nature would be allowed to run wild.

Mr. Mahalak said there were not enough funds available for mitigation that would prevent the streams from taking a natural course. He noted the Task Force had requested the State to remove the fee for gravel extraction, and now the Borough needed to be asked to remove the fee for riprap from the Seward Rock-Quarry.

The Task Force agreed to have a resolution introduced to the Assembly requesting the removal of the Riprap fee.

Public Comment

Robert White, Seward, said he felt Ordinance 2009-09 did not address the specific type of problems that were present, and felt it opened up a liability issue. He said the land swap option was not all that viable and would have been done if it were possible; however, there was not enough land available for development. Finally he said CMZ would only work if it included a maintenance plan, with a commitment for funding to keep it in place.

Jim Conant, said the levee's and dike's that were built needed to be maintained. He said the SBCFSA had done maintenance; however, funds diminished and further maintenance was not being done, he felt there needed to be some type of language that allowed for funding to complete the much needed maintenance.

(08:15:20)

GENERAL DISCUSSION

Mr. Gray said even with CMZ planning, all other options also had to be included such as clearing gravel, bank reinforcements, and dike maintenance.

Mr. Best said from platting perspective on subdivisions, the Planning Commission could not regulate what happened on properties as far as what was built on them, which places the Planning Commission in a difficult position. He said you could not tell a builder they could not subdivide based on a building regulation. He said if suitability mapping was done, the Borough would then have documents available to prove what should or should not be done.

Mr. Mahalak said the Environmental Protection Agency (EPA) and U.S. Fish and Wildlife were willing to do the stream and wetland assessments within the SBCFSA, with the in-kind service of his help, he said the SBCFSA said they would like to have that information. Mr. Mahalak also said that FEMA was willing to fund the risk assessment; however, the Borough would need to be a certified technical partner, and the Borough would have to be willing to accept the risks.

Mr. Stauffer said access to the streams for mitigation work was a problem, historically the Borough trended to plat into the middle of a stream, which then makes the stream private lands.

TASK FORCE MEETING AND ANNOUNCEMENTS

The next meeting of the Flood Plain Task Force was scheduled for July 8, 2009, at 6:00 p.m. in the Council Chambers of Seward City Hall.

ADJOURNMENT

The committee adjourned at 8:42 p.m.

Introduced by:	Long
Substitute Introduced:	02/17/09
O2009-09 (Long):	See Original for Prior History
Hearings:	02/17/09 and 03/24/09
Action:	Postponed Until 03/24/09
Date	03/24/09
Action:	Enacted as Amended
Vote:	9 Yes, 0 No, 0 Absent

**KENAI PENINSULA BOROUGH
ORDINANCE 2009-09
(LONG) SUBSTITUTE**

**AN ORDINANCE CREATING A FLOOD HAZARD DISTRICT, OUTSIDE THE
FLOOD INSURANCE RATE MAP AREA, WITHIN THE SEWARD-BEAR CREEK
FLOOD SERVICE AREA TO INCLUDE THE 1986, 1995, AND 2006 KPB GIS MAPPED
FLOOD DATA AREAS**

WHEREAS, flooding has occurred in the Seward-Bear Creek Flood Service Area (SBCFSA) repeatedly; and

WHEREAS, a federal disaster has been proclaimed within SBCFSA three times since 1986; and

WHEREAS, the Flood Insurance Rate Maps (FIRMs) are outdated and inaccurate; and

WHEREAS, the Federal Emergency Management Agency (FEMA) is in the process of preparing new FIRMs; and

WHEREAS, there have been millions of dollars in damage to private properties and public infrastructure caused by flooding events in the area; and

WHEREAS, flooding places the public health and safety at risk; and

WHEREAS, gravel deposits are steadily and rapidly increasing in SBCFSA streams, and the risk of flooding and related loss increases; and

WHEREAS, subdivision and development in SBCFSA has increased dramatically since 1996, increasing flood loss potential; and

WHEREAS, FEMA Disaster Assistance only provides a minimal amount of funding to repair damages to a home not covered by flood insurance to return it to a safe, sanitary, and functioning condition, but not to rebuild the home to current codes; and

WHEREAS, merely returning the structures to their preexisting condition results in potential for repeated flood damage and destruction to the same properties; and

WHEREAS, according to the 2005 KPB comprehensive plan, enforcement of floodplain requirements is primarily through voluntary compliance and assistance from mortgage companies since the borough does not require building permits or inspections; and

WHEREAS, the City of Seward has permitting regulations in place to assist with flood issues in the area of the SBCFSA within city limits; and

WHEREAS, KPB Chapter 21.06 contains the minimal regulations required by FEMA for floodplain management, and these regulations alone have not proved an effective tool for mitigating flood damage in the SBCFSA; and

WHEREAS, goal 6.7, objective 1, implementation action G of the comprehensive plan is to identify wetlands, floodplains, and erosion areas and minimize adverse impacts of flooding or erosion on neighboring properties; and

WHEREAS, goal 6.7, objective 2, of the comprehensive plan is to increase local participation in decisions regarding development in floodplains and wetlands; and

WHEREAS, goal 6.7, objective 3, implementation action A of the comprehensive plan is to improve the borough's floodplain ordinance; and

WHEREAS, a one year sunset clause is appropriate as FEMA is the process of developing new FIRM maps; and

WHEREAS, at its March 2, 2009, meeting, the SBCFSA board recommended enactment; and

WHEREAS, at its March 9, 2009, meeting, the Kenai Peninsula Borough Planning Commission recommended enactment by majority consent;

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

SECTION 1. That KPB 21.06.020 is hereby amended by adding the following definitions:

- Q. “SMFDA” means the Seward Mapped Flood Data Area which includes the 1986, 1995, and 2006 KPB GIS mapped flood data area within the Seward-Bear Creek Flood Service Area outside the FIRM and city limits of Seward.
- R. “Primary structure” means a dwelling, a building suitable for commercial use, or any structure which will be served by water or wastewater disposal systems or a fuel storage tank. This definition is applicable only in the SMFDA.
- S. “Substantial Evidence” means evidence a reasonable mind might accept to support a conclusion.

- T. Minimum Flood Corridor means the active physical bank full channel of the stream, river or creek as measured at the seasonal high water flows.

SECTION 2. That KPB 21.06.030(B) is hereby amended as follows:

- B. Basis for establishing flood hazard areas. Flood hazard areas are identified as follows:
1. By the flood insurance rate maps with an effective date of May 19, 1981, revised on July 5, 1983 and December 6, 1999. The map panels numbered 020012-1350 and 1700 have been deleted and the areas depicted by these panels are not subject to the terms of this chapter. Excluding these panels, the flood insurance rate maps are adopted by reference and declared to be a part of this chapter. The flood insurance rate maps are on file at the planning department.
 2. The 1986, 1995, and 2006 KPB GIS mapped flood data area within the Seward-Bear Creek Flood Service Area (SMFDA) outside the city limits of Seward. A map showing this floodplain and flood data and a list of properties represented by this map shall be retained by the planning department and made available to the public. If any portion of a lot is included in the flood data mapped area, the entire lot shall be subject to the provisions of this chapter. Special provisions for development permits in the KPB mapped flood data area are set forth in KPB 21.06.045. Data available from other Federal, State of other sources shall be reviewed and reasonably utilized including but not limited to the following:
 - a. “**Flood of October 1986 at Seward Alaska,**” USGS Water-Resources Investigation Report 87-4278. Jones, S.H., and Zenone, Chester. (1988).
 - b. “**Hydrologic Reconnaissance near Fourth of July Creek, Seward, Alaska.**” USGS Water Resources Investigations 81-21. Nelson, G.L. (1981).

SECTION 3. That KPB 21.06.045 is hereby enacted as follows:

21.06.045. KPB GIS mapped flood data area.

- A. Base flood elevation in the SMFDA district. Based upon a digital elevation model provided by the borough base flood elevation in the SMFDA district is established by a licensed professional registered land surveyor or professional civil engineer at the highest point within the lot measured downslope from the specific construction site.
- B. Exemption from application of SMFDA district. A property owner may request an exemption for application of SMFDA to his proposed

development upon a showing by substantial evidence that his property was not inundated by flood waters in the 1986, 1995, or 2006 floods; adverse bank erosion has not occurred during the property owner's ownership, erosion can not be determined by analysis of KPB aerial photos beginning in 1986; the property is not a Corps of Engineers regulated wetland; or adjacent property owners concur there has been no adverse impact to their properties by flooding from the property of ownership making the request for SMFDA exemption. Staff shall verify whether the application for exemption meets the criteria and shall issue a written determination regarding the same. This determination may be appealed to the planning commission within 15 days of issuance.

C. Conditions. Only primary structures, substantial improvements to primary structures, and development in the minimum flood corridor in the SMFDA district require a development permit. The permits in the SMFDA district are subject to the following conditions:

1. Primary structures in the SMFDA district shall be a minimum of two feet above base flood elevation. Below-grade supports shall be at a two-to-one ratio as compared to the support above grade;
2. Foundations shall have an erosion resistant design; and
3. Where applicable, the standards for the permit is subject to the standards set forth in KPB 21.06.050; and
4. The permitted activity shall not increase the risk of flood damage to downstream or adjacent properties.

D. Currently active channels within the SMFDA district. All development in the SMFDA district in the minimum flood corridor within the Resurrection River watershed, Spruce and Sawmill Creeks, shall be subject to the permitting requirements of KPB 21.06.050(C).

E. If review of the permit application by staff indicates that the conditions set forth in KPB 21.06.045(C) cannot be met, staff shall deny the application. The applicant may apply for a permit from the planning commission by submitting a project-specific design under the waiver provisions of KPB 21.06.045(F).

F. Waivers. The variance procedure in KPB 21.06.060 only applies to permitting in the FIRM area. A project-specific design prepared by a licensed professional civil engineer may be submitted for consideration to the planning commission in lieu of meeting the conditions set forth in KPB 21.06.045(C). Based upon written findings of fact, the planning commission may grant or deny the permit and place conditions on the permit it grants in order that the risk of flood damage to downstream or adjacent property or

flood damage to public infrastructure will not be increased. The grant or denial of a permit may be appealed to the Board of Adjustment within 15 days of distribution of the planning commission's written decision.

SECTION 4. That this ordinance shall automatically expire on March 24, 2010 unless the assembly by ordinance alters or extends that date.

SECTION 5. That this ordinance is effective on the date of its enactment. The ordinance is not applicable to parcels where the "actual start of construction" has commenced as defined by KPB 21.06.020(M) prior to the date of enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 24TH DAY OF MARCH, 2009.

Milli Martin, Assembly President

ATTEST:

Johni Blankenship, Borough Clerk

Yes: Fischer, Knopp, Long, Pierce, Smalley, Smith, Sprague, Superman, Martin

No: None

Absent: None

**KENAI PENINSULA BOROUGH FLOOD PLAIN TASK FORCE
RESOLUTION 2009-04**

**A RESOLUTION RECOMMENDING THAT VARIOUS SOLUTIONS INCLUDING
LAND PURCHASE, SALE, AND TRADE BE PURSUED IN ORDER TO FACILITATE
MOVING CITIZENS WITHIN THE SEWARD-BEAR CREEK FLOOD SERVICE
AREA FROM FLOOD HAZARD AREAS**

WHEREAS, flooding has occurred in the Seward-Bear Creek Flood Service Area (SBCFSA) repeatedly; and

WHEREAS, a federal disaster has been proclaimed within SBCFSA three times since 1986; and

WHEREAS, there are parcels that are subject to repetitive loss due to flooding in the SBCFSA; and

WHEREAS, the Kenai Peninsula Borough Flood Plain Task Force was formed in order to evaluate long-term solutions to flooding and the repetitive damage flooding causes within the Seward-Bear Creek Flood Service Area (“SBCFSA”); and

WHEREAS it is a priority to remove people and structures from these repetitive loss areas in order to protect life and property and reduce public funds expended on disaster mitigation and relief; and

WHEREAS, the borough owns lands within the SBCFSA and throughout the borough for community development; and

WHEREAS, the borough has the power to purchase, manage, use, and dispose of land under AS 29.35.010(8); and

WHEREAS, the borough planning commission reviewed this resolution on _____ and recommended _____; and

WHEREAS, the Seward-Bear Creek Flood Service Area board reviewed this resolution on _____ and recommended _____;

NOW, THEREFORE, BE IT RESOLVED BY THE KENAI PENINSULA BOROUGH FLOOD PLAIN TASK FORCE:

SECTION 1, The Kenai Peninsula Borough Flood Plain Task Force (“FPTF”) recommends to the assembly that it evaluate available lands for purchase, sale, and trade in order to move property owners from flood hazard areas within the SBCFSA. The FPTF further recommends that this program be developed to primarily aid homeowners, and that parcels with structures in flood hazard areas have priority in receiving relief. The FPTF further recommends that the administration submit the program to the assembly for approval by July 1, 2010.

**ADOPTED BY THE KENAI PENINSULA BOROUGH FLOOD PLAIN TASK FORCE
THIS 8TH DAY OF JULY, 2009.**

Ron Long, Task Force Chair

**KENAI PENINSULA BOROUGH FLOOD PLAIN TASK FORCE
RESOLUTION 2009-_____**

**A RESOLUTION RECOMMENDING THAT VARIOUS SOLUTIONS INCLUDING
LAND PURCHASE, SALE, AND TRADE BE PURSUED IN ORDER TO FACILITATE
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WHEREAS, the borough owns lands within the SBCFSA and throughout the borough for community development; and

WHEREAS, the borough has the power to purchase, manage, use, and dispose of land under AS 29.35.010(8); and

WHEREAS, the Seward-Bear Creek Flood Service Area board reviewed this resolution on _____ and recommended _____;

Deleted: WHEREAS, the borough planning commission reviewed this resolution on _____ and recommended _____; and¶

NOW, THEREFORE, BE IT RESOLVED BY THE KENAI PENINSULA BOROUGH FLOOD PLAIN TASK FORCE:

SECTION 1. The Kenai Peninsula Borough Flood Plain Task Force (“FPTF”) recommends to the assembly that it evaluate available lands for purchase, sale, and trade in order to move property owners from flood hazard areas within the SBCFSA. The FPTF further recommends that the administration seek additional municipal entitlement lands which may be appropriate for such purposes and to work with the State of Alaska Department of Natural Resources as necessary to achieve beneficial entitlement selections. The FPTF further recommends that this program be

developed to primarily aid homeowners, and that parcels with structures in flood hazard areas have priority in receiving relief. The FPTF further recommends that the administration submit the program to the assembly for approval by July 1, 2010.

**ADOPTED BY THE KENAI PENINSULA BOROUGH FLOOD PLAIN TASK FORCE
THIS 8TH DAY OF JULY 2009.**

Ron Long, Task Force Chair

**KENAI PENINSULA BOROUGH FLOOD PLAIN TASK FORCE
RESOLUTION 2009-05**

**A RESOLUTION RECOMMENDING THAT THE BOROUGH ASSEMBLY
AUTHORIZE A CHANNEL MIGRATION ZONE (CMZ) ANALYSIS AND
SUITABILITY MAPPING PROJECT WITHIN THE SEWARD-BEAR CREEK FLOOD
SERVICE AREA**

WHEREAS, flooding has occurred in the Seward-Bear Creek Flood Service Area (SBCFSA) repeatedly; and

WHEREAS, a federal disaster has been proclaimed within SBCFSA three times since 1986; and

WHEREAS, no plan has been developed that clearly defines all the hazards and presents specific actions to steer development away from these known hazards; and

WHEREAS, a CMZ analysis will establish the historic river channels and floodways; identify areas of high bank erosion; identify areas of aggradation; identify methods to prevent erosion; identify methods to maximize sediment transport; provide maps that clearly define the flooding threat for individual properties; identify areas where bed load reduction is needed; identify where dykes need to be added or improved; and identify where riverbanks need to be reinforced; and

WHEREAS, CMZ analysis in combination with suitability mapping will identify areas where development is appropriate; identify areas where development could occur if proper construction techniques are utilized; identify where flooding is too common and development should not occur; identify where currently developed areas should be returned to the floodway to give the rivers reasonable flow channels; and include a coordinated effort to see that suitable upland areas (federal, state, borough, and private) are opened for development as soon as possible; and

WHEREAS, a CMZ analysis and suitability mapping will provide a fair and thorough process, using the best available science, to determine developable, non-developable, and conditionally developable property; will bring new issues and solutions to light; will provide a reasonable level of technical analysis with an organized outreach approach that directly involves the citizens; and would produce a functional plan within the shortest possible time frame, 12 to 18 months from EPA acceptance; and

WHEREAS, a flood zone building methods program would establish recommended building methods combined with a highly developed outreach effort; provide the most compelling process to encourage people to build correctly without imposing codes and establishing a complex and expensive compliance effort; provide low interest loans for landowners who follow the flood zone building methods program from the state revolving fund (SRF), and interest rates would be 1.5 to 3 points below conventional loans; would save the owner thousands over the life of the loan, essentially paying for special construction methods; and the Alaska SRF currently has \$43.2 million (\$237,000 dedicated to planning) and is actively looking for

applicable projects; and

WHEREAS, much of the CMZ analysis can be performed by borough personnel with borough data, significantly reducing costs; and

WHEREAS, by completing the CMZ in-house, the borough provides the local match for the full CMZ allowing the suitability mapping and builder certification programs to be completed with little expense to local government agencies; and

WHEREAS, EPA Wetland Program Development Grants and SRF are likely funding sources for this project; and

WHEREAS, the next EPA funding cycle (proposal deadline) will probably be early winter 2010, providing a reasonable timeline for working out the details with the various governmental agencies and producing the proposal; and

WHEREAS, the planning commission reviewed this resolution at its meeting of _____ and voted _____; and

WHEREAS, the SBCFSA considered this resolution at its meeting of _____ and voted _____;

NOW, THEREFORE, BE IT RESOLVED BY THE KENAI PENINSULA BOROUGH FLOOD PLAIN TASK FORCE:

SECTION 1. That the Kenai Peninsula Borough Flood Plain Task Force recommends that the Kenai Peninsula Borough Assembly authorize the completion of a CMZ analysis in combination with a suitability mapping project and the development of a flood zone building methods program.

SECTION 2. That this resolution be forwarded to the KPB Assembly.

ADOPTED BY THE KENAI PENINSULA BOROUGH FLOOD PLAIN TASK FORCE THIS 8TH DAY OF JULY, 2009.

Ron Long, Task Force Chair

Introduced by: Long, Mayor at the Request of the
Flood Plain Task Force
Date: 05/19/09
Hearing: 06/16/09
Action: Enacted as Amended
Vote: 9 Yes, 0 No, 0 Absent

**KENAI PENINSULA BOROUGH
ORDINANCE 2009-29**

**AN ORDINANCE AMENDING KPB 14.06.100 AND KPB 14.06.170 TO REQUIRE AN
ENGINEERING ANALYSIS AND DESIGN FOR ROAD CONSTRUCTION IN THE
SEWARD MAPPED FLOOD DATA AREA AND FLOOD INSURANCE RATE MAP
AREA WITHIN THE SEWARD-BEAR CREEK FLOOD SERVICE AREA**

- WHEREAS**, there have been numerous road failures in the road service area in the Seward vicinity; and
- WHEREAS**, Ordinance 2009-09 (Substitute) adopted the Seward Mapped Flood Data Area designating the areas subject to the 1985, 1995, and 2006 floods as flood hazard areas; and
- WHEREAS**, Section 2.11.1 of Chapter 2, Floods, of the All Hazard Mitigation Plan is to reduce susceptibility to damage and disruption by avoiding hazardous, uneconomic, and unwise development in known hazard areas; and
- WHEREAS**, Strategy 5 in Chapter 2, Floods, of the All Hazard Mitigation Plan includes a recommendation to amend KPB Chapter 14.06 to include drainage plans for roads; and
- WHEREAS**, requiring engineer designs for roads within flood hazard areas will reduce road failure; and
- WHEREAS**, road failures are expensive to repair, inconvenience the public and emergency services, and threaten life, health, safety, and property; and
- WHEREAS**, at its meeting of April 29, 2009, the Flood Plain Task Force recommended enactment; and
- WHEREAS**, at its meeting of May 12, 2009, the Kenai Peninsula Borough Road Service Area recommended enactment by unanimous consent; and
- WHEREAS**, at its meeting of May 26, 2009, the Kenai Peninsula Borough Planning Commission recommended enactment by unanimous consent; and
- WHEREAS**, at its meeting of June 1, 2009, the Seward-Bear Creek Flood Service Area Board recommended enactment of this ordinance;

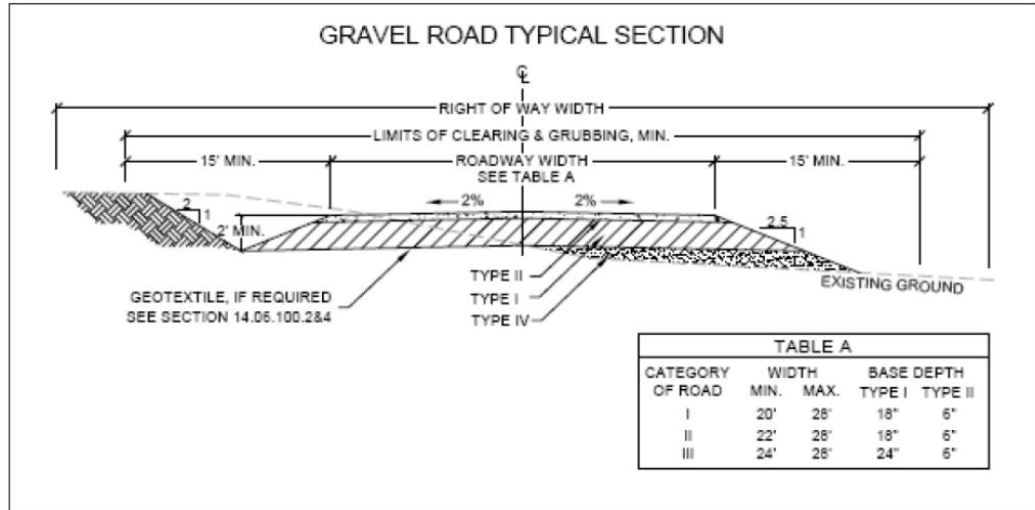
NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

SECTION 1. That KPB 14.06.100 is hereby amended as follows:

14.06.100. Road construction standards—Construction standards for maintenance certification.

- A. Typical section. Gravel roads shall be constructed in accordance with the Gravel Road Typical Section drawing and associated tables. Additional requirements are:
1. Roads must be contiguous with an existing road system maintained by the borough or other governmental agency. All roads must be on a dedicated right-of-way or a section-line easement and must be built along the right-of-way centerline. Minimum right-of-way width shall be 60 feet.
 2. All organic material shall be stripped and removed to a minimum depth of four feet below finished grade. If geotextile is utilized over organics, then the depth of embankment must be two feet minimum or greater as required for stability for Category I and II roads, and 30 inches or greater for Category III roads.
 3. Extraction of material between the ditch lines for any purpose other than excavation to subgrade is prohibited.
 4. Geotextile shall be placed over all subgrade soils consisting of silts or clays with a frost classification of F4 (U.S. Corps of Engineers). Geotextile shall be provided to cover maximum width of embankment.
 5. The roadway embankment shall be placed in lifts of 12 inches or less and compacted to not less than 92 percent of maximum density. Maximum density shall be determined by AASHTO T 180, Method D.
 6. In place usable excavation material within the outside 12 feet of 60-foot or greater rights-of-way meeting the specifications of the required embankment material may be utilized in lieu of borrow. Backfill must be placed in lifts and equipment tracked. No organic debris may be buried within the right-of-way.
 7. The RSA requires a 2.5:1 fore slope in ditchlines. Fill areas over six feet must be an engineered design, preapproved by the RSA director.

8. Roads constructed in level terrain susceptible to ponding require the applicant to submit to the RSA director for approval drainage designs which may include approved drainage galleries or elevated road sections.
- B. Roads must pass a proof roll test at the RSA director's discretion if expected or intended traffic volume or use of the road has not materialized prior to release of the applicant's security as provided in KPB 14.06.140. The RSA director or his staff shall make written findings stating the reason(s) a proof roll test is required. The applicant must provide the means to conduct a proof roll test during the final inspection. The proof roll test will consist of a 12-cubic-yard end dump truck loaded to maximum legal capacity traversing the road as directed by the RSA director or designee. The minimum proof rolling is full length of the road, on both lanes. If excessive rutting, greater than three-inch-depth tracks, occurs, remedial work will be required. The RSA director or designee will designate the defective areas in a written report.
 - C. Roads constructed across wetlands, including peatlands, must be designed and certified by a licensed civil engineer preapproved by the RSA director.
 - D. In order to limit damage to the right-of-way, adjacent properties, watercourses, and waterbodies, construction of roads within the Seward Mapped Flood Data Area (SMFDA) and Flood Insurance Rate Map (FIRM) area WITHIN THE Seward-Bear Creek Flood Service Area, as both are defined by KPB 21.06, requires an engineering analysis and design certified by a licensed civil engineer approved by the road service area board prior to start of construction. Any exception to this requirement must be approved by the road service area board in accordance with KPB 14.06.230.



Requirements for Embankment Material

Percent Passing by Weight

Category I, II, & III Roads Table

Sieve Designation	Type I	Type II	Type III*
4 inch	95--100	--	--
2 inch	85--100	100	100
1 inch	--	--	95--100
No. 4	30--60	30--65	40--75
No. 16	--	--	20--43
No. 200	0--6	6--10	4--10

*Type III relates to Category IV Gravel Roads: Typical Section

SECTION 2. That KPB 14.06.170 is hereby amended as follows:

14.06.170. Road construction standards—Drainage and culvert material.

Roads shall be constructed to prevent ponding of runoff waters in roadside ditches. Drainage ditches shall be constructed such that runoff waters will be conveyed to natural drainage courses, ditches or waterways, or other man-made drainage courses. Outfalls shall be constructed to prevent excessive siltation of riparian habitats, channel erosion, or other damage to public or private property. The RSA board may require[, UPON STAFF RECOMMENDATION,] an engineering analysis and design for locations susceptible to flooding, siltation, or other natural conditions potentially damaging to the right-of-way, adjacent property, or water courses and water bodies. Pursuant to KPB 14.06.100, the board shall require this engineering analysis and

design in the SMFDA and FIRM area. A roadway cross culvert shall be a minimum diameter of 18 inches, and with at least a one percent drainage grade through the culvert, and driveway culverts shall be a minimum of 15 inches and 30 feet in length. Culverts, coupling bands and special sections shall be corrugated steel pipe of at least 16 gauge. Plastic culverts are acceptable for driveway culverts only, if they meet AASHTO Standard Section 706-2.07 corrugated polyethylene pipe, AASHTO M 294, Type S. AASHTO cross culvert markers must be installed.

SECTION 3. That this ordinance takes effect immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 16TH DAY OF JUNE, 2009.

Milli Martin, Assembly President

ATTEST:

Johni Blankenship, Borough Clerk

Yes: Fischer, Knopp, Long, Pierce, Smalley, Smith, Sprague, Superman, Martin
No: None
Absent: None

Introduced by: Long, Mayor at the Request of
the Flood Plain Task Force
Date: 05/19/09
Hearing: 06/16/09
Action: Enacted as Amended
Vote: 9 Yes, 0 No, 0 Absent

**KENAI PENINSULA BOROUGH
ORDINANCE 2009-30**

**AN ORDINANCE ESTABLISHING CRITERIA FOR PLAT NOTES AND PROVIDING
A FLOOD-PRONE PLAT NOTE FOR THE SEWARD MAPPED FLOOD DATA AREA
AND FLOOD INSURANCE RATE MAP AREA**

- WHEREAS,** plat notes provide a beneficial consumer protection service in advising the public about important issues such as flooding, access, and development restrictions; and
- WHEREAS,** Ordinance 2009-05 formed the Seward Mapped Flood Data Area (“SMFDA”) requiring permits in flood hazard areas outside the Flood Insurance Rate Map (“FIRM”) area in the Seward-Bear Creek Flood Service Area (“SBCFSA”); and
- WHEREAS,** there should be restrictions on the type of plat notes that can be placed on a plat to ensure that the borough or another governmental entity can enforce the same; and
- WHEREAS,** the Flood Plain Task Force considered this ordinance at its April 29, 2009 meeting and recommended enactment without objection; and
- WHEREAS,** the planning commission considered this ordinance at its May 26, 2009 meeting and recommended enactment by unanimous consent; and
- WHEREAS,** the SBCFSA considered this ordinance at its June 1, 2009 meeting and recommended enactment by unanimous consent;

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

SECTION 1. That KPB 20.16.145 is hereby enacted as follows:

20.16.145. Plat notes.

Plat notes shall not be placed on a final plat unless required by the planning commission in order to promote or protect the public health, safety, and welfare consistent with borough and state law.

SECTION 2. KPB 20.20.260 is hereby amended as follows:

20.20.260. Flood plain requirements.

- A. All subdivision plats which are within areas where the flood plain has been identified by [THE ARMY CORPS OF ENGINEERS] FEMA, and which involve 50 lots or 5 acres whichever is lesser, shall include base flood elevation data and delineate the area involved within the flood plain on the plat.
- B. All subdivisions or replats within the FIRM area or SMFDA, as amended, as defined by KPB 21.06.020, shall contain the following note or a substantially similar note:
- FLOOD PRONE NOTICE: Some or all of the property shown on this plat has been designated by FEMA or the Kenai Peninsula Borough as a flood hazard area district as of the date this plat is filed with the district recorder's office. Prior to development, the Kenai Peninsula Borough floodplain administrator should be contacted for current information and regulations.
- C. Each plat within a city which has met the requirements of this section shall contain the following statement: "The first finished and habitable floor of a building constructed within a flood plain shall be built at or above the 100-year flood level."
- [C]D. This section applies to all cities which adopt a resolution requesting participation in the program and which are subsequently recognized by the state as participants.
- [D]E. A city which wishes greater restrictions than those contained in subsection A may do so by passing a more restrictive ordinance as a part of their building code.

SECTION 3. That this ordinance takes effect immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 16TH DAY OF JUNE, 2009.

Milli Martin, Assembly President

ATTEST:

Johni Blankenship, Borough Clerk

Yes: Fischer, Knopp, Long, Pierce, Smalley, Smith, Sprague, Superman, Martin
No: None
Absent: None

Introduced by: Long, Mayor
Date: 05/19/09
Action: Adopted as Amended
Vote: 9 Yes, 0 No, 0 Absent

**KENAI PENINSULA BOROUGH
RESOLUTION 2009-044**

**A RESOLUTION REQUESTING THAT THE STATE OF ALASKA EXEMPT FLOOD
MITIGATION PROJECTS IN THE SEWARD AREA FROM THE GRAVEL
EXTRACTION FEE, AS IT APPLIES TO ALL FLOWING WATERS INTO
RESURRECTION BAY, IN THE VICINITY OF SEWARD, ALASKA**

WHEREAS, the Seward-Bear Creek Flood Service Area and the Kenai Peninsula Borough are working to lessen impacts to flooding in the Seward area; and

WHEREAS, the State of Alaska Department of Natural Resources charges a mineral resources extraction fee of \$3.25 per cubic yard for gravel; and

WHEREAS, this extraction fee makes flood control projects more expensive and cost prohibitive; and

WHEREAS, charging an extraction fee for gravel extracted for flood mitigation projects is contrary to protecting public health and safety; and

WHEREAS, streambed loading due to sediment deposits increase the frequency of flooding in the Seward area; and

WHEREAS, the Seward-Bear Creek Flood Service Area Board and the Kenai Peninsula Borough are working toward streambed load removal and other flood control options in the Seward area; and

WHEREAS, on April 1, 2009, the Flood Plain Task Force adopted a resolution recommending that the State of Alaska exempt flood mitigation property from the gravel extraction fee; and

WHEREAS, on May 18, 2009, the Seward-Bear Creek Flood Service Area considered this resolution and recommended adoption by unanimous consent;

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

SECTION 1. That all flowing waters into Resurrection Bay in the vicinity of Seward, Alaska are continually filling with sediment and debris that must be removed to lessen the flood events in the Seward area.

SECTION 2. The gravel deposits in these streams need to be removed regularly to ensure the economic viability of the community as well as ensure public health and safety.

SECTION 3. That the Kenai Peninsula Borough Assembly requests that the State exempt flood mitigation projects in the Seward area from its gravel extraction fee.

SECTION 4. The Kenai Peninsula Borough Assembly requests that other concerned local boards and commissions pass similar declarations in support of this resolution.

SECTION 5. That copies of this resolution shall be sent to the Honorable Governor Sarah Palin, Senators Con Bunde, Albert Kookesh, Gary Stevens, and Tom Wagoner, Representatives Mike Chenault, Mike Hawker, Kurt Olson, Woodie Salmon, and Paul Seaton, Commissioner of Alaska Department of Natural Resources Tom Irwin, Kenai Peninsula Borough Road Service Area Board, Seward-Bear Creek Flood Service Area Board, and the Kenai Peninsula Borough Planning Commission.

SECTION 6. That this resolution takes effect immediately upon its adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 19TH DAY OF MAY 2009.

Milli Martin, Assembly President

ATTEST:

Johni Blankenship, Borough Clerk

Yes: Fischer, Knopp, Long, Pierce, Smalley, Smith, Sprague, Superman, Martin

No: None

Absent: None

Introduced by: Long at the Request of the
Flood Plain Task Force
Date: 07/07/09
Action:
Vote:

**KENAI PENINSULA BOROUGH
RESOLUTION 2009-058**

**A RESOLUTION REQUESTING THE USDA NATURAL RESOURCES
CONSERVATION SERVICE EXPEDITIOUSLY COMPLETE SOILS SURVEYS IN
THE SEWARD AREA**

- WHEREAS,** flooding has occurred in the Seward-Bear Creek Flood Service Area (SBCFSA) repeatedly; and
- WHEREAS,** a federal disaster has been proclaimed within SBCFSA three times since 1986; and
- WHEREAS,** there are currently no accurate soils maps available for the lands within the SBCFSA; and
- WHEREAS,** accurate soil mapping is necessary to help define historic flood zones and to predict effects of future flooding events; and
- WHEREAS,** to provide the best possible management for flooding issues within the SBCFSA accurate soils mapping is necessary; and
- WHEREAS,** the Kenai Peninsula Borough Flood Plain Task Force and the SBCFSA are taking every reasonable action to minimize future flood damage; and
- WHEREAS,** the KPB Flood Plain Task Force has identified the need for accurate soils maps to allow analysis of historic flood events and for use in designing flood prevention structures and flood reduction planning; and
- WHEREAS,** the KPB Flood Plain Task Force passed a resolution recommending that the assembly request the USDA Natural Resources Conservation Service to expeditiously complete soils surveys in the Seward area for the purposes described above; and
- WHEREAS,** the planning commission reviewed this resolution at its June 22, 2009, meeting and recommended adoption by unanimous consent; and
- WHEREAS,** the City of Seward Advisory Planning Commission reviewed this resolution at its _____ meeting and recommended _____; and

WHEREAS, the SBCFSA board reviewed this resolution at its _____ meeting and recommended _____;

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

SECTION 1. That the Kenai Peninsula Borough Assembly requests that the USDA Natural Resources Conservation Service prioritize the SBCFSA for completion of a soils survey as soon as possible.

SECTION 2. That copies of this resolution shall be sent to USDA Natural Resources Conservation Service, Environmental Protection Agency (EPA), and _____.

SECTION 3. That this resolution takes effect immediately upon its adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 7TH DAY OF JULY, 2009.

Milli Martin, Assembly President

ATTEST:

Johni Blankenship, Borough Clerk

Yes:

No:

Absent:

Introduced by: Long at the Request of the
Flood Plain Task Force
Date: 07/07/09
Action:
Vote:

**KENAI PENINSULA BOROUGH
RESOLUTION 2009-060**

**A RESOLUTION WAIVING FEES CHARGED BY THE KENAI PENINSULA
BOROUGH TO THE SEWARD-BEAR CREEK FLOOD SERVICE AREA FOR RIPRAP
REMOVED FROM THE SEWARD ROCK QUARRY TO BE USED FOR FLOOD
MITIGATION PROJECTS**

WHEREAS, the Flood Plain Task Force was established January 20, 2009, by Resolution 2009-005 for the purpose of examining certain floodplain issues and developing options for the Seward-Bear Creek Flood Service Area (SBCFSA); and

WHEREAS, at its meeting of June 24, 2009, the task force approved requesting the assembly adopt a resolution to waive the royalty fee for riprap removed from the Seward rock quarry that is used for hardening and shoring up levees and revetments in the Seward area to minimize the extent of potential flooding; and

WHEREAS, royalty fees for riprap in the borough-owned Seward rock quarry are currently approximately \$3.75 per cubic yard, and waiving these fees would be for the public purpose of minimizing flood damage; and

WHEREAS, Implementation Action E of Objective 1, Goal 6.7 in the Comprehensive Plan is to support efforts to minimize adverse impacts of flooding or erosion to protect neighboring properties or resources; and

WHEREAS, waiving these fees would be consistent with that implementation action;

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

SECTION 1. That the Kenai Peninsula Borough Assembly hereby authorizes the administration to waive royalty fees for the removal of riprap from the Seward rock quarry to be used for the following projects:

1. Hardening the levy and earthen berm built on the Kwechak Creek upstream from the Bear Lake Subdivision for the purpose of protecting the homes and roads in that subdivision.
2. To erosion-proof the revetment along Tiehacker Road to protect Meridian Park and the Bear Lake Subdivision.

3. Other similar projects as may be specifically identified by the SBCFSA from time to time.

SECTION 2. That this resolution takes effect immediately upon its adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 7TH DAY OF JULY, 2009.

Milli Martin, Assembly President

ATTEST:

Johni Blankenship, Borough Clerk

Yes:

No:

Absent:

Introduced by: Long at the Request of the
Flood Plain Task Force
Date: 07/07/09
Action:
Vote:

**KENAI PENINSULA BOROUGH
RESOLUTION 2009-061**

A RESOLUTION URGING THE STATE OF ALASKA RECOMMEND THAT SALMON CREEK, FOURTH OF JULY CREEK AND SAWMILL CREEK, ALL LOCATED IN THE VICINITY OF SEWARD, ALASKA BE DEEMED NON-NAVIGABLE

WHEREAS, the State of Alaska Department of Natural Resources (DNR) has changed positions on the issue of navigability on several occasions; and

WHEREAS, the Seward-Bear Creek Flood Service Area (SBCFSA) and the Kenai Peninsula Borough are working to reduce impacts to flooding in the Seward area; and

WHEREAS, the DNR charges a royalty fee on all gravel materials removed from areas defined as navigable; and

WHEREAS, this fee makes flood control projects more expensive and cost prohibitive; and

WHEREAS, the Bureau of Land Management recommends that all water bodies, with the exception of Bear Lake, be considered administratively non-navigable in T1N R1E, T1N R1W, T2N R1W, T1S R1W, T1S R1E, Seward Meridian, State of Alaska; and

WHEREAS, DNR policy interprets the Daniel Ball test as requiring the water body to be usable as a highway for the transportation of people or goods as a test of navigability.

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

SECTION 1. That Salmon Creek, Fourth of July Creek and Sawmill Creek are not navigable, as defined by and in the Daniel Ball test and best survey practices, and are not subject to the Submerged Lands Act which, according to State of Alaska policy on navigability on the website http://dnr.alaska.gov/mlw/nav/nav_policy.htm, is the accepted and correct standard for determining navigability.

SECTION 2. The March 20, 2006 Recommendation of Navigability letter from DNR refers to

extreme gradients as conclusive evidence of non-navigability on Spruce Creek. However, all of the creeks listed as navigable in the 2006 determination contain reaches of these same "extreme" gradients as expressed in percent slope derived from LIDAR dataset 2006 and pertinent cross sections.

SECTION 3. That based on the above information and findings established in a previous determination the assembly respectfully urges the DNR to determine these streams to be not navigable.

SECTION 4. Copies of this resolution shall be sent to Governor Sarah Palin, Commissioner Tom Irwin, Senate President Gary Stevens, Senator Thomas Wagoner, House Speaker Mike Chenault, Representative Kurt Olson, and Representative Paul Seaton.

SECTION 5. That this resolution takes effect immediately upon its adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 7TH DAY OF JULY, 2009.

Milli Martin, Assembly President

ATTEST:

Johni Blankenship, Borough Clerk

Yes:

No:

Absent: