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# Kenai Peninsula Borough

## Flood Plain Task Force

### Meeting Summary

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March 10, 2010 - 6:00 p.m.

Regular Meeting

Seward City Hall, 401 Adams Street, Seward

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#### **CALL TO ORDER**

A regular meeting of the Flood Plain Task Force was held on March 10, 2010, in the Council Chambers of Seward City Hall, Seward, Alaska. Chair McClure called the meeting to order at 6:00 p.m.

There were present:

Sue McClure, Chair	Dan Mahalak
Colette Thompson	Todd Peterson
Randy Stauffer	Ron Long
Jim McCracken	Matt Gray
Christy Terry	

Absent:

Charlie Pierce, Vice Chair	Holly Montague
Jane Gabler	Max Best
Ron Wille	Bill Williamson
Robert Hicks	

[Clerk's Note: Scott Walden and Kevin Lyon were no longer on the Flood Plain Task Force, as they were no longer Kenai Peninsula Borough employees.]

Also in attendance:

Shellie Saner, Deputy Clerk  
Mary Toll, KPB Planning  
Dan Nelson, Donald E. Gilman River Center  
Mayor Carey  
Sue Wilcox, Special Assistant to the Mayor

#### **WELCOME**

(06:00:06)

Chair McClure thanked everyone for attending the meeting. She read Resolution 2009-05 to restate the purpose of the Task Force, and summarized the meeting schedule. She noted that the sunset date of Ordinance 2009-09 (Long) Substitute was extended to May 5, 2010 to allow additional comment and recommendations regarding the sunset.

**PUBLIC COMMENT** - None.

#### **JULY 8, 2009 MEETING SUMMARY**

## PROGRESS REPORTS

(06:05:42)

### Donald E. Gilman River Center - Dan Mahalak

Mr. Mahalak said documents showing the process that has taken place in regards to the gravel extraction fee were shown on page 8 of the Flood Plain Task Force (FPTF) packet. He anticipated the earliest any further conclusions could be expected was the next legislative session.

Mr. Mahalak said no determination had yet been received on navigability, and the following creeks were subject to change on a case by case basis: Resurrection River, Salmon Creek, Sawmill Creek, Grouse Creek, Lost Creek, Kwechak Creek, and Fourth of July Creek. He noted it also included submerged lands within the ordinary high water mark.

Mr. Mahalak said the Kenai Peninsula Borough (KPB) had been told by the Federal Emergency Management Agency (FEMA) that the Digital Flood Insurance Maps (D-FIRMS) would be delivered on March 15, 2010 at 6:00 p.m., he reminded everyone that this was subject to change as they were not delivered as expected in March of 2009. He noted if the maps were received as scheduled the soonest they would be available to the public would be June of 2010.

Mr. Mahalak explained using the 2009 Lidar Maps and comparing them to the base flood elevation from the 100 year discharge, then subtracting the two, revealed how much water would be over a bridge or road way. He then listed the following: Nash Road and Salmon Creek Road would be 4.5 feet submerged, Salmon Creek Bridge would be 4 feet under water, Bruno Bridge would be 5 feet under water, Grouse Creek Bridge would be 3 feet under water, and three of the new bridges would be 2 feet under water.

Mr. Mahalak said there was \$132 million of improved land in the Seward Bear Creek Flood Service Area that had not been mapped because FEMA could not afford to or it was on an alluvial fan and to hard to map.

Mr. McCracken asked if everything in Resurrection Valley was an alluvial fan? Mr. Mahalak said no.

Mr. Mahalak said the 2009/2006 Lidar change detection maps were completed in house, and showed an estimated 1.5 million cubic yards of material moved during the 2006 flood event. He said at a cost of \$11.73 a cubic yard it would cost roughly \$17 million to bring the area back to down to 2006 flood elevations.

Mr. Long asked what the odds were of receiving the D-FIRMS on the scheduled date? Mr. Mahalak said the odds were slim.

Mr. McCracken asked if Mayor Carey had any information regarding the navigability issues.

Mayor Carey stated the primary purpose for his attendance at the Flood Plain Task Force meeting was to demonstrate appreciation for the work that had been done. He felt the flooding problems had not been adequately addressed by any level of government, despite the efforts of the community, and noted he was pleased to see the number of KPB Staff present trying to assist with the problem.

Mayor Carey said March 5, 2010, was the fourth meeting where KPB Staff traveled to Anchorage or Juneau to address the Seward flooding issues, the primary subject was a permit issued by the State to KPB in regards to gravel extraction. He said KPB wanted clarification on permit terms prior to signing, these being the monitoring of the gravel after extraction, and the assumed responsibilities of KPB. He said during the meeting KPB Staff was told the gravel could be removed and stored appropriately, all that was required was once a year KPB verify that the gravel was still there, and signs were to be posted which clearly stated the gravel was not for commercial use. He said KPB had provided additional language to be added to the permit for clarification.

Mayor Carey noted the issue of navigability was also discussed and at this time the State does recognize that it is a problem. He said during previous meetings the topic of navigability had not been allowed.

(06:34:30)

### **Donald E. Gilman River Center - Dan Nelson**

Mr. Nelson said basically the Donald E. Gilman River Center sends out notifications to individuals who purchased property within the Seward Mapped Flood Data Areas (SMFDA), this was done in conjunction with the Assessing Department which monitored the recordings of property sales. He said the notifications clearly state the hazards, permit requirements, and informs people that KPB staff was available to assist. He said there were 24 ownership transfers in the SMFDA since June of 2009. He said the notification system would continue and was not dependent on the sunset of Ordinance 2009-09 (Long) Substitute. He felt as an educational and outreach tool it had been very successful.

Mr. McCracken asked if the road repair and material removal permits shown on page 25 of the packet were applied for by the KPB? Mr. Nelson said the road repairs were, and some of the material removals were private individuals.

Mr. Long asked if any of the permits that were applied for had been denied or if any development had been identified that required a permit and none was issued? Mr. Nelson said no permits were denied, and he was not aware of any development that should have had a permit and did not.

Mr. Long asked when explaining the conditions and restrictions to new property owners how was the information taken? Mr. Nelson said he had not done any of the permits so he did not have any first hand knowledge; however, he had not heard about any negative customer response.

Ms. Terry asked if there was any follow up or certification after the permits were issued. Mr. Nelson said the permits were not closed; however, photos were required when submitted to planning.

Chair McClure asked if the notification letters would continue if Ordinance 2009-09 (Long) Substitute was allowed to sunset. Mr. Nelson said the letters contained valuable information and would continue.

(06:43:50)

### **Old Mill Subdivision Buy Out - Colette Thompson**

Ms. Thompson said the KPB, State, and Federal Governments had all contributed funds toward the Old Mill Subdivision buy out program, and explained the program. She said privately owned properties in the Old Mill Subdivision would be purchased, the Federal Government would own the property and KPB would have an easement, all improvements would then be removed from the

property. She said the project had been handled by the KPB Legal Department during the contract phase and was now handled by the KPB Land Management Department for the implementation phase.

Ms. Thompson said out of the 75 privately owned properties, 35 applications had been received, and referred to the map on page 30 of the packet which showed the area broken down by priority into sections A, B, and C, section A being the highest priority and C the lowest. She said at this time the National Resource Conservation Service was in the process of ranking the applications.

Chair McClure asked if there was any anticipation of another phase to the buy out program? Ms. Thompson said she had heard indirect talk of more funds being available; however, she did not know if it was for this type of project.

(06:48:49)

### **Flood-Prone Plat Notes - Mary Toll**

Ms. Toll said in 2009 there were nineteen plats recorded within the Seward recording district, four outside of the Seward area, six located within the City of Seward, and nine outside of the Seward City limits, and of those nine, one was subject to Ordinance 2009-09 (Long) Substitute and required showing historical flooding, and two were submitted after enactment of Ordinance 2009-30 and were required to include the flood prone plat note. She noted some sections of KPB would need to be changed if Ordinance 2009-09 (Long) Substitute was allowed to sunset.

(06:53:34)

### **Seward-Bear Creek Flood Service Area Watershed Master Plan - Randy Stauffer**

Mr. Stauffer said a combination of several components were needed to create a Watershed Masterplan, and the Seward Bear Creek Flood Service Area (SBCFSA) was committed to writing a Watershed Masterplan. He said the SBCFSA had applied for grant for costs of an area wide risk assessment study, which was a major component to a Watershed Masterplan. He said additional components would come from the KPB working with the Corps of Engineers reviewing data to gather information for a cost benefit analysis and the Wetland Study proposed by Mr. Gray.

(06:57:44)

### **Wetlands Functional Assessment Project - Matt Gray**

Mr. Gray said he was trying to build partnerships in an effort to make the Wetlands Functional Assessment Project a viable project, and this partnership would included the Kenai Watershed Forum, SBCFSA, and the Donald E. Gilman River Center. He said this would be an additional component to the SBCFSA Masterplan. He said the National Resource Conservation Service (NCRS) would be performing a soil study in the summer of 2010, which would provide a scientific assessment of what is present and what the functions were. He noted the KPB had been proactive in mapping the wetlands throughout the KPB, and the main goal would be adding the functionality to the existing maps. He said a high interest factor for Seward would be salmon; however, it would also consider rare plants and wildlife corridors. He said the Kenai Peninsula Wetlands Working Group had recently initiated an effort to do a KPB wide wetlands functional assessment, and have indicated the priority will be on high value watersheds like the Kenai River, and Anchor River, so it may take a while before Seward was considered.

Mr. Stauffer said preliminary proposals had been submitted to the SBCFSA by Mr. Gray; however, these were just preliminary and was yet to determine the cost and where the funds would be coming from.

Mr. McCracken asked if any of the funds would be from the SBCFSA? Mr. Stauffer said as with any grants there were required matching funds, at this time the matching funds would be \$25,000; he then stated the SBCFSA had not yet approved those expenditures.

Mr. Gray stated the in-kind value was estimated around \$13,000 and that would be Mr. Mahalak's time, not actual money coming out of the budget.

Mr. McCracken asked if wetlands mapping could only be done by the Army Corps of Engineers. Mr. Gray said he believed that was correct in terms of true delineations.

## **PUBLIC COMMENT**

(07:08:38)

**Steve Shafer**, PO Box 1062, Seward, stated he was concerned with the actions being taken, were they helping development or hindering it. He felt the Department of Natural Resources was reinventing the definition of navigability, and wanted to know what was being done in regards to land ownership, was the KPB taxing citizens for land they do not actually own. He stated while serving on the SBCFSA the primary solution was to remove the gravel; however, until the gravel could be removed no amount of mapping or study would resolve the flooding problem.

## **FINAL RECOMMENDATION - ORDINANCE 2009-09 (LONG) SUBSTITUTE SUNSET**

(07:18:16)

Chair McClure clarified that Ordinance 2009-09 (Long) Substitute was scheduled to sunset on May 5, 2010. She said the original sunset date was March 24, 2010; however, that was extended to allow final recommendations by the SBCFSA and the FPTF.

Mr. Peterson spoke in support of the sunset, stating the ordinance was meant to be a stop-gap, and the new information that was on its way from FEMA would address the issues.

Ms. Terry said if it was allowed to sunset KPB code would have to be corrected in several areas.

Mr. McCracken said the KPB Assembly enacted the ordinance with a sunset clause for a reason, and felt it should be allowed to sunset as scheduled.

Chair McClure requested the KPB Legal Department follow through with the code corrections if the ordinance was allowed to sunset.

Mr. Long said the ordinance was originally intended as a bridge until the FEMA mapping was received, which had not happened yet and said it looked like it may be another construction season before those maps were received. He felt the information and outreach had proven worth while, and the one applicant that he spoke with appreciated the guidance received from the Donald E. Gilman River Center. He did not recommend going from the low level regulations currently in place, to none, and then possibly much stricter regulations when the new FIRM maps were received. He felt even if the ordinance was allowed to sunset, sections that were beneficial to KPB staff and the public should be salvaged. He recommended the ordinance be extended until the new maps were received from FEMA.

Mr. Gray spoke in support of the ordinance being continued until the new FIRM maps were received.

Mr. Stauffer spoke in support of the ordinance continuing until the new maps were received, and felt there should be regulations in reference to the historical flood data.

Mr. Mahalak spoke in support of the extending the sunset date. He felt the flood prone plat was an excellent piece of material and hoped it would continue.

Ms. Toll said subdivision plats showed all sorts of things, including existing travel ways, foot paths, minor drainages, slopes greater than 20 percent, and felt in an area like Seward, requiring a plat to show areas of seasonal or historical flooding was not unreasonable. She did not feel the ordinance should be allowed to sunset.

Ms. Thompson said she agreed with most of what had been said, and until KPB received an updated FIRM map, the ordinance should continue.

Mr. Nelson felt the information and public outreach had been an effective service, and the ordinance was based on historical floods data, there was still a hazard, people were still at risk. He said if the ordinance was allowed to sunset the issue would still be there.

Mr. Mahalak said he had a fundamental issue with a government using an ordinance as an educational tool, and not having enforcement behind it. He felt this was a problem with Ordinance 2009-09 (Long) Substitute, and the flood plain development in general.

Mr. Peterson said the amount of development in the area had been minimal and he felt it would continue to be minimal.

Chair McClure said she would refrain from voicing her opinion, as this issue will more than likely be before the KPB Assembly. She said it appeared that a large majority of the FPTF was in favor of extending the ordinance until the FEMA maps were received.

MOTION: McClure moved that final recommendation to KPB Assembly was to allow Ordinance 2009-09 (Long) Substitute to sunset on May 5, 2010.

[Clerk's Note: Borough Staff members were ex officio members of the FPTF and did not participate in voting.]

VOTE ON FINAL RECOMMENDATION:  
Yes: McCracken, Peterson  
No: Gray, Long, Stauffer, Terry  
Absent: Hicks, Pierce, Wille, Williamson  
Abstention: McClure  
VOTE ON FINAL RECOMMENDATION FAILED: 2 Yes, 4 No, 4 Absent, 1 Abstention

MOTION: Terry moved that final recommendation to KPB Assembly was to extend the sunset of Ordinance 2009-09 (Long) Substitute until March 4, 2011 with revisions.

VOTE ON FINAL RECOMMENDATION:

Yes: Gray, Long, Stauffer, Terry  
No: McCracken, Peterson  
Absent: Hicks, Pierce, Wille, Williamson  
Abstention: McClure  
VOTE ON FINAL RECOMMENDATION PASSED: 4 Yes, 2 No, 4 Absent, 1 Abstention

(07:50:39)

**REVISION DISCUSSION**

Mr. Long felt the revision should be addressed by KPB staff and the SBCFSA.

**GENERAL DISCUSSION AND QUESTIONS**

(07:54:57)

Chair McClure asked if the KPB Administration had pursued any actions from Resolution 2009-070; which, authorized the Administration to pursue various solutions including land purchase, sale, and trade in order to facilitate moving citizens within the SBCFSA from flood hazard areas? Mayor Carey said the KPB was looking at developing a new subdivision in the area and were also reviewing State entitlement lands.

Mr. Long felt that there should be no issue with also modifying the date on KPB Resolution 2009-070 as it was developed in consideration of Ordinance 2009-09 (Long) Substitute.

Ms. Terry asked if the Donald E. Gilman River Center routed permit applications to other KPB Departments if necessary? Mr. Nelson said yes.

Mr. McCracken said the problem still remains the same and that is too much gravel, and the recent lidar flights proved it.

Mr. Long thanked everyone who participated with the FPTF, and agreed with Mr. McCracken stating Seward did not have a flood problem, it had gravel problem. He said the news from Mayor Carey was promising, and it was apparent that under the current taxing model, gravel was worth more to the State than gold. He felt action needed to be taken that would allow the smaller issues to be addressed, instead of allowing the bigger problems to overwhelm any progress at all. He said no matter what the projects were called, the objectives were still the same.

Mr. Mahalak thanked the members of the community for the support provided to himself and the SBCFSA. He felt the work being done was a necessity; however, any map would just be an estimate.

Mr. Stauffer felt the actions taken by the FPTF was successful. He said the task force formed in the 1980's had come up with some of the same recommendations, and thanked everyone for their participation. He said some of the problems went beyond the capabilities of the SBCFSA.

Mr. Gray said more attention needed to be paid to all the issues, and there was no easy fix. He did not want to over simplify the problems and felt the complexity of the issue required more progressive planning. He felt the FPTF was a good exercise and the ability to work on multiple issues was productive. He stated his appreciation for everyone's efforts.

Ms. Toll said her participation with the FPTF had been a rewarding experience. She hoped the SBCFSA realized that the KPB Staff was available to help with the problems.

Ms. Thompson felt that there was still a long ways to go a lot of good was done with the specific steps taken by the FPTF. She said FPTF had helped make the flooding issues more visible and raised awareness, which had forced the KPB to work with the State, and the State had finally begun to cooperate.

Mr. Nelson felt the FPTF had made a good start. He said resolution on some of the little issues had an effect on the bigger issues. He thanked everyone for their time.

## **PUBLIC COMMENT**

(08:20:31)

**Bob White**, PO Box 201, Seward, felt Ordinance 2009-09 (Long) Substitute had not accomplished anything. He said if people built in compliance and their property was damaged in a flooding event it would establish a liability to the KPB. He said regardless of the road ordinance the correct conditions would still damage a road. He said people would ignore KPB Ordinances when it was convenient. He felt the navigability issue was not being addressed aggressively enough. He said a wetlands mapping assessment would be another cost to the KPB.

**Steve Shafer**, PO Box 1062, Seward, said in 1993 he had offered the KPB to put in a road in exchange for the logs, the Mayor at the time turned the offer done. He said if that had been done it would have made at least 160 acres available for people. He felt the State was being a bully and continued to get their way.

## **TASK FORCE MEETING AND ANNOUNCEMENTS**

Chair McClure thanked Mr. Long for all his work on the FPTF, and noted the SBCFSA and Planning Commission would be coming forward with recommendations also.

## **ADJOURNMENT**

Chair McClure adjourned the final meeting of the Flood Plain Task Force at 8:30 p.m.