

AGENDA
KENAI PLANNING & ZONING COMMISSION – REGULAR MEETING
MAY 8, 2019 - 7:00 P.M.
KENAI CITY COUNCIL CHAMBERS
210 FIDALGO AVENUE, KENAI, ALASKA
www.kenai.city

A Work Session will be held prior to the general meeting from 5:30 p.m. to 6:45 p.m. to discuss amending Kenai Municipal Code 14.20.220 – Signs

1. CALL TO ORDER

- a. Pledge of Allegiance
- b. Roll Call
- c. Agenda Approval
- d. Consent Agenda
- e. *Excused absences

All items listed with an asterisk () are considered to be routine and non-controversial by the Commission and will be approved by one motion. There will be no separate discussion of these items unless a Commission Member so requests, in which case the item will be removed from the Consent Agenda and considered in its normal sequence on the agenda as part of the General Orders.

2. *APPROVAL OF MINUTES

- a. April 24, 2019.....1

3. SCHEDULED PUBLIC COMMENT

(Public comment limited to ten (10) minutes per speaker)

4. UNSCHEDULED PUBLIC COMMENT

(Public comment limited to three (3) minutes per speaker; thirty (30) minutes aggregated)

5. CONSIDERATION OF PLATS - None

6. PUBLIC HEARINGS - None

7. UNFINISHED BUSINESS - None

8. NEW BUSINESS

- a. **Resolution PZ2019-12** – Application for Transfer of Conditional Use Permit PZ15-10 for the Operation of a Gravel Pit for Extraction of Natural Resources, from Michael S. Brown, Transferor, to BMBC, LLC, Transferee, located at 601 Childs Avenue, Kenai,

Alaska 99611; further described as Tract 3, Jaynes Subdivision Big Mikes Addition....5

9. **PENDING ITEMS** - None

10. **REPORTS**

- a. City Council25
- b. Borough Planning – None (next meeting to be held on May 13, 2019)
- c. Administration

11. **ADDITIONAL PUBLIC COMMENT**

(Public comment limited to three (3) minutes per speaker; thirty (30) minutes aggregated)

12. **INFORMATIONAL ITEMS**

- a. TRASHercise Lunches 201929

13. **NEXT MEETING ATTENDANCE NOTIFICATION** – May 22, 2019

14. **COMMISSION COMMENTS AND QUESTIONS**

15. **ADJOURNMENT**

**KENAI PLANNING & ZONING COMMISSION
REGULAR MEETING
APRIL 24, 2019 – 7:00 P.M.
KENAI CITY COUNCIL CHAMBERS
210 FIDALGO AVENUE, KENAI, ALASKA
CHAIR JEFF TWAIT, PRESIDING**

MINUTES

1. CALL TO ORDER

Commission Chair Twait called the meeting to order at 7:00 p.m.

a. Pledge of Allegiance

Commission Chair Twait led those assembled in the Pledge of the Allegiance.

b. Roll Call

Commissioners present: Chair J. Twait, Vice-Chair D. Fikes, R. Springer, G. Greenberg, J. Halstead, V. Askin

Commissioners absent: T. McIntyre

Staff/Council Liaison present: City Planner E. Appleby, Deputy Clerk J. LaPlante, Planning Dept. Assistant W. Anderson, Council Liaison B. Molloy

A quorum was present.

c. Agenda Approval

MOTION:

Commissioner Springer **MOVED** to approve the agenda as presented and Commissioner Halstead **SECONDED** the motion. There were no objections; **SO ORDERED**.

d. Consent Agenda

MOTION:

Commissioner Askin **MOVED** to approve the consent agenda include the excused absence of Commissioner McIntyre and Commissioner Halstead **SECONDED** the motion. There were no objections; **SO ORDERED**.

All items listed with an asterisk () are considered to be routine and non-controversial by the Commission and will be approved by one motion. There will be no separate discussion of these items unless a Commission Member so requests, in which case the item will be removed from the Consent Agenda and considered in its normal sequence on the agenda as part of the General Orders.

e. *Excused absences – T. McIntyre

2. ***APPROVAL OF MINUTES**

- a. March 27, 2019
- b. April 10, 2019

The minutes were approved by the Consent Agenda.

3. **SCHEDULED PUBLIC COMMENT** – None.

4. **UNSCHEDULED PUBLIC COMMENT** – None.

5. **CONSIDERATION OF PLATS** – None.

6. **PUBLIC HEARINGS**

- a. **Resolution No. PZ2019-13** – Amending Kenai Municipal Code 14.20.320 – Definitions - 14.20.330 – Standard for Commercial Marijuana Establishments and 14.22.010 – Land Use Table, to Incorporate Onsite Consumption of Marijuana at Retail Marijuana Establishments into the City of Kenai’s Code of Ordinances

MOTION:

Commissioner Fikes **MOVED** to approve Resolution No. PZ2019-13 and Commissioner Askin **SECONDED** the motion.

The City Planner reviewed the staff report that was provided in the packet, noting the proposed new definition category with conditional use permits and an onsite consumption endorsement. It was further noted that only marijuana stores may obtain an onsite consumption endorsement. It was added that there were currently four permitted marijuana stores operating in the City of Kenai.

City Staff advised the Commission that passage of Resolution No. PZ2019-13 would recommend approval of Ordinance No. 3056-2019 to the Kenai City Council.

Chair Twait opened the floor for public testimony. There being no one wishing to be heard, public comment was closed.

The City Attorney clarified that per the State of Alaska regulations the allowable onsite consumption products were limited to edibles and the plant product for inhalation.

The Commission discussed potential limitations on the hours of operations for onsite consumption.

MOTION TO AMEND:

Commissioner Springer **MOVED** to amend the Resolution to include a limitation of hours of operation of onsite consumption; Commissioner Greenberg **SECONDED** the motion.

VOTE ON THE AMENDMENT:

YEA: Fikes, Springer, Askin, Greenberg, Twait, Halstead
NAY:

MOTION PASSED UNANIMOUSLY.

VOTE ON THE MAIN MOTION AS AMENDED:

YEA: Greenberg, Halstead, Springer, Fikes, Askin, Twait
NAY:

MOTION PASSED UNANIMOUSLY.

7. **UNFINISHED BUSINESS** – None.

8. **NEW BUSINESS** – None.

9. **PENDING ITEMS** – None.

10. **REPORTS**

a. **City Council** – Council Member Molloy reviewed the action agenda from the April 17 City Council Meeting and specifically noted the informative presentation on the History of Kenai Local Food Connection; a budget work session was on April 18 to review and discuss the FY20 Proposed Budget; and the evaluations of the City Manager, Attorney and City Clerk were on April 23.

b. **Borough Planning** – Vice-Chair Fikes reported the Commission met on April 22, approved four plats, a vacation of easement in Seldovia, and a resolution for an application of a conditional use permit for two bridges in the habitat protection district and improvement of Windy Bay Road of the Katchemak Bay area. She added there was special consideration for building setback in the Longmere Subdivision; a consideration of a motion to amend after adoption for a continuation of a hearing date for a conditional land use permit application for materials site extraction; and the Materials Site Plan Working Group was moving forward.

c. **Administration** – City Planner Appleby reported on the following:

- The FY20 budget for Planning and Zoning was reviewed by Council on April 18; and
- The current Code enforcement activity in Kenai.

11. **ADDITIONAL PUBLIC COMMENT** – None.

12. **INFORMATIONAL ITEMS** – None.

13. **NEXT MEETING ATTENDANCE NOTIFICATION** – May 8, 2019

The City Planner noted there would be a Sign Code work session prior to the next regular meeting.

14. COMMISSION COMMENTS & QUESTIONS

Commissioner Halstead thanked Administration for their hard work.

Commissioner Springer noted interest in having the onsite alcohol consumption locations also in the Kenai Code.

15. ADJOURNMENT

There being no further business before the Commission, the meeting was adjourned at 8:10 p.m.

Minutes prepared and submitted by:

Jacquelyn LaPlante
Deputy City Clerk



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210 Fidalgo Ave, Kenai, Alaska 99611-7794
Telephone: (907) 283-7535 | Fax: (907) 283-3014
www.kenai.city

STAFF REPORT

To: Planning & Zoning Commission

Date: May 2, 2019

Subject: Resolution PZ2019-12 – Transfer of Conditional Use Permit from Michael S. Brown, Transferor, to BMGC, LLC, Transferee

Applicant: BMGC, LLC
230 Main Street Loop
Kenai, AK 99611

Requested Action: Transfer of Conditional Use Permit PZ15-10

Legal Description: Tract 3, Jaynes Subdivision Big Mikes Addition

Property Address: 601 Childs Avenue

KPB Parcel No: 04935012

Lot Size: 387,684 square feet (8.9 acres)

Existing Zoning: Heavy Industrial (IH)

Current Land Use: Surface Extraction of Gravel

Land Use Plan: Industrial

GENERAL INFORMATION

Michael S. Brown holds a conditional use permit to operate a gravel pit located at 601 Child Avenue, The City has received an application to transfer the permit to BMGC, LLC. The gravel pit is located with the Heavy Industrial (IH) Zone of the City.

Application, Public Notice, Public Comment

On March 13, 2019, the transferee, BMGC, LLC, submitted an Application for Transfer of Conditional Use Permit to follow Kenai Municipal Code (KMC) 14.20.158(a) requiring an application for transfer in writing.

City staff published notice of the application in the *Peninsula Clarion*. No public comments have been received as of May 2, 2019.

ANALYSIS

On May 27, 2015, the Planning and Zoning Commission passed Resolution PZ15-10 for the construction and operation of a gravel pit for the extraction of natural resources. The permit was issued to Greg Duggin and Tom Reece. Michael Brown operated the gravel pit owned by Greg Duggin and Tom Reece under the permit issued by Resolution PZ15-10.

The property was conveyed to Michael S. Brown on March 15, 2016, and Mr. Brown submitted an Application for Transfer of Conditional Use Permit. On May 25, 2016, the Planning and Zoning Commission reviewed the application and passed Resolution PZ16-14 transferring Conditional Use Permit PZ15-10 to Michael S. Brown. Mr. Brown has filed annual reports for 2016, 2017, and 2018, pursuant to Kenai Municipal Code 14.20.150(f). He is current with obligations due the City of Kenai and the Kenai Peninsula Borough.

Kenai Municipal Code (KMC) 14.20.150(i)(5) states the following on transfers of conditional use permits:

KMC 14.20.150(i)(5) Transferability. A Conditional Use Permit is not transferable from one (1) parcel of land to another. Conditional Use Permits may be transferred from one (1) owner to another for the same use, but if there is a change in use on the property, a new permit must be obtained.

The following text for KMC 14.20.157(a) is specific to transfers of conditional use permits for surface extraction:

KMC 14.20.157(a) Amendment or transfer. No Conditional Use Permit issued hereunder shall be transferred until the proposed transferee has made application for transfer in writing filed with the administrative official, which application shall state that he intends to be bound by the plan and statements contained in the application of the permit holder or shall contain the amendments to the plan his proposed *operation* would mandate. The Commission shall approve the application for transfer and in so doing amend the site plan and statements if such amendments as are contained in the application for transfer would have been approved had they been contained in the original application.

BMGC, LLC provided information to the City showing they meet current conditions of PZ16-14 and would continue to operate under the terms and conditions of the PZ16-14 and the original Conditional Use Permit PZ15-10. The following reviews the existing conditions of the permit to be transferred:

- a. Applicant must comply with all Federal, State and local regulations.
The transferor has complied with government regulations and the transferee would continue to operate under this condition.
- b. Prior to commencement of extraction of Natural Resources, Applicant shall obtain all necessary State and Federal Permits.
The transferor has obtained necessary permits and the transferee would continue to

operate under this condition.

- c. Prior to commencement of construction and extraction of Natural Resources, Applicant shall be required to construct a non-climbable 6 foot high fence as shown on the approved site plan along Childs Avenue.
The transferor has built this fence and this condition should be amended to state the transferee would maintain the fence.
- d. The only processing of material that shall take place on the subject site is screening. There shall be no crushing of material or operation of a concrete or asphalt plant on the subject site.
The transferor has met this condition and the transferee would continue to operate under this condition.
- e. Material extraction site shall be limited to 3-acres in size and shall be located on the subject site as shown on the approved site plan. Any future expansion beyond 3 acres of the material extraction site shall require the modification of the Conditional Use Permit.
The transferor has met this condition and the transferee would continue to operate under this condition.
- f. There shall be no extraction of Natural Resources beyond the ground water table.
The transferor has met this condition and the transferee would continue to operate under this condition.
- g. Hours of operation shall be 8 am to 8 pm for the moving of materials.
The transferor has met this condition and the transferee would continue to operate under this condition.
- h. Applicant shall file an annual report for the Conditional Use Permit as set forth in Kenai Municipal Code 14.20.155.
The transferor has met this condition and the transferee would continue to operate under this condition.
- i. Prior to recording the Plat (PZ15-13), the applicant shall submit an application to the City of Kenai, Planning and Zoning Division for a Transfer of the Conditional Use Permit for the Gravel Pit (PZ15-10).
The transferor has met this condition. As this condition would not longer apply to the transferee, it should be deleted.
- j. Applicant shall employ the use of dust control measures to ensure the material site and Childs Avenue remain dust free. Dust control shall include the daily use of a water truck and placement of Calcium Chloride on Childs Avenue. A water truck shall also be used to control dust from the working face of the Gravel Pit.
The transferor has met this condition and the transferee would continue to operate under this condition.
- k. If there is a change of use for the above described property a new Conditional Use Permit must be obtained, pursuant to 14.20.150(i)(5).
The transferor has met this condition and the transferee would continue to operate under

this condition.

The conditional use permit for surface extraction was approved along with a separate resolution that granted variance permit with PZ15-11. Normally, KMC 14.20.154(a)(2) requires:

The boundaries of the proposed excavation at its greatest dimensions, including backslopes, are at least two hundred feet (200') from any road or public right-of-way and at least one hundred fifty feet (150') from other surrounding property lines, except that adjoining permitted surface extraction of natural resources sites is not required to maintain the above one hundred fifty feet (150') excavation between sites.

The variance granted a setback of 80 feet from the centerline of Child's Avenue (normally 200 feet from any road is required), 50 feet from the west and east property lines (normally 150 feet required), and 15 feet from the southern property line (normally 150 feet required). The applicant verified these distances were met by the current extract. I recommend adding a condition to the transfer of conditional use permit for surface extraction that the transferee continue to operate within the buffer distances granted by the variance permit in PZ15-11.

RECOMMENDATIONS

The transfer of conditional use permit for surface extraction meets the requirements of Kenai Municipal Code 14.20.150(i)(5) and 14.20.157(a). City staff recommends approval of the transfer of Conditional Use Permit PZ15-10 (PZ16-14), subject to the following conditions:

- a. Further development of the property shall conform to all federal, State of Alaska, and local regulations.
- b. Applicant shall obtain all necessary State of Alaska and federal permits.
- c. The applicant shall maintain a non-climbable 6 foot high fence along Childs Avenue as shown on the approved site plan.
- d. The only processing of material that shall take place on the subject site is screening. There shall be no crushing of material or operation of a concrete or asphalt plant on the subject site.
- e. Material extraction site shall be limited to 3-acres in size and shall be located on the subject site as shown on the approved site plan. Any future expansion beyond 3 acres of the material extraction site shall require the modification of the Conditional Use Permit.
- f. There shall be no extraction of Natural Resources beyond the ground water table.
- g. Hours of operation shall be 8 am to 8 pm for the moving of materials.
- h. Applicant shall file an annual report for the Conditional Use Permit as set forth in Kenai Municipal Code 14.20.155.
- i. Applicant shall employ the use of dust control measures to ensure the material site and Childs Avenue remain dust free. Dust control shall include the daily use of a

water truck and placement of Calcium Chloride on Childs Avenue. A water truck shall also be used to control dust from the working face of the Gravel Pit.

- j. If there is a change of use for the above described property a new Conditional Use Permit must be obtained, pursuant to 14.20.150(i)(5).
- k. Applicant shall operate within the setbacks granted by variance permit PZ15-11, which are an 80-foot setback from the centerline of Child's Avenue, 50 feet from the western and eastern property lines, and 15 feet from the southern property line.

ATTACHMENTS

- 1. Draft Resolution No. PZ2019-12
- 2. Resolution No. PZ15-10
- 3. Resolution No. PZ 16-14
- 4. Application
- 5. Map

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CITY OF KENAI PLANNING AND ZONING COMMISSION RESOLUTION NO. PZ2019-12

A RESOLUTION OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI
GRANTING A REQUEST FOR A TRANSFER OF CONDITIONAL USE PERMIT FOR
SURFACE EXTRACTION OF NATURAL RESOURCES TO:

NAME: BMGC, LLC

USE: SURFACE EXTRACTION OF NATURAL RESOURCES

LOCATED: TRACT 3, JAYNES SUBDIVISION BIG MIKES ADDITION

KENAI PENINSULA BOROUGH PARCEL NO: 04935012

WHEREAS, the Commission finds:

- (1) That an application meeting the requirements of Sections 14.20.150(i)(5) and 14.20.157 has been submitted to the City of Kenai on March 13, 2019; and,
- (2) This request is on land zoned as Heavy Industrial; and,
- (3) The applicant would not change the use of the property; and,
- (4) The transferor has complied conditions of the existing permit; and,
- (5) The transferee will comply with conditions of the existing permit.

NOW, THEREFORE, BE IT RESOLVED, BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI, ALASKA, THAT THE CONDITIONAL USE PERMIT FOR MICHAEL S. BROWN FOR SURFACE EXTRACTION OF NATURAL RESOURCES BE TRANSFERRED TO BMGC, LLC, SUBJECT TO THE FOLLOWING CONDITIONS:

- (1) Further development of the property shall conform to all federal, State of Alaska, and local regulations.
- (2) Applicant shall obtain all necessary State of Alaska and federal permits.
- (3) The applicant shall maintain a non-climbable 6 foot high fence along Childs Avenue as shown on the approved site plan.

- (4) The only processing of material that shall take place on the subject site is screening. There shall be no crushing of material or operation of a concrete or asphalt plant on the subject site.
- (5) Material extraction site shall be limited to 3-acres in size and shall be located on the subject site as shown on the approved site plan. Any future expansion beyond 3 acres of the material extraction site shall require the modification of the Conditional Use Permit.
- (6) There shall be no extraction of Natural Resources beyond the ground water table.
- (7) Hours of operation shall be 8 am to 8 pm for the moving of materials.
- (8) Applicant shall file an annual report for the Conditional Use Permit as set forth in Kenai Municipal Code 14.20.155.
- (9) Applicant shall employ the use of dust control measures to ensure the material site and Childs Avenue remain dust free. Dust control shall include the daily use of a water truck and placement of Calcium Chloride on Childs Avenue. A water truck shall also be used to control dust from the working face of the Gravel Pit.
- (10) If there is a change of use for the above described property a new Conditional Use Permit must be obtained, pursuant to 14.20.150(i)(5).
- (11) Applicant shall operate within the setbacks granted by variance permit PZ15-11, which are an 80-foot setback from the centerline of Child's Avenue, 50 feet from the western and eastern property lines, and 15 feet from the southern property line.

PASSED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI, ALASKA, this 8th day of MAY, 2019.

ATTEST:

JEFF TWAIT, CHAIRPERSON

JAMIE HEINZ, CMC, CITY CLERK

**CITY OF KENAI
PLANNING AND ZONING COMMISSION
RESOLUTION NO. PZ15-10
CONDITIONAL USE PERMIT**

A RESOLUTION OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI **GRANTING** A REQUEST FOR A CONDITIONAL USE PERMIT FOR THE CONSTRUCTION AND OPERATION OF A GRAVEL PIT FOR THE EXTRACTION OF NATURAL RESOURCES.

APPLICANT: GREG DUGGAN AND TOM REESE

ADDRESS: P.O. Box 42, Kenai, Alaska 99611 & 49820 Leisure Lake Drive, Soldotna, Alaska 99669

PROPERTY ADDRESS: 503 CHILDS AVENUE

LEGAL DESCRIPTION: NW ¼ SE ¼ Section 4, Township 5 North, Range 11 West, Excluding Jaynes Subdivision, Seward Meridian

KENAI PENINSULA BOROUGH PARCEL NUMBER: 04935007

WHEREAS, the City of Kenai Planning and Zoning Commission finds:

1. That an application meeting the requirements of Sections 14.20.151, 14.20.152, 14.20.154, and 14.20.155 of the Kenai Municipal Code has been submitted and received on April 15, 2015;
2. This request is located on land zoned as Heavy Industrial.
3. That a duly advertised public hearing as required by Kenai Municipal Code 14.20.153 was conducted by the Commission on May 13, 2015 and May 27, 2015.
4. The Planning & Zoning Commission has found that the applicant has demonstrated with plans and other documents and has found which are a prerequisite to issuance of a Conditional Use Permit have been met, as follows:

CONDITIONAL USE PERMIT FINDINGS

Kenai Municipal Code (KMC) 14.20.154 details the intent and application process for the issuance of a Conditional Use Permit for the Surface Extraction of Natural Resources. The code specifies that based on the submitted Conditional Use Permit application, site plan and supplemental information filed, the Commission shall make a determination as to whether each of the below findings have been satisfied prior to the issuance of the permit. The criteria are:

1. *The application is in substantial compliance with the requirements of this chapter.*

Chapter 14.20.151 details the submittal requirements for a Conditional Use Permit to allow for the Surface Extraction of Natural Resources. As required by KMC 14.20.151, the applicant has submitted a proposed site plan, drawn to scale which shows the location of the proposed 3-acre sand and gravel extraction material area with contours shown at 4-foot intervals after excavation. The applicant does not propose to construct any buildings or structures as a part of the proposed sand and gravel permit application, therefore, buildings or structures are not shown on the site plan. It is noted as required in KMC 14.20.151(d) that the applicant is the property owner. It should also be noted, however, that the Operator owns the adjacent parcel to the south which is approximately 2.7-acres in size. The operator does plan to construct a commercial storage building for the storage of construction equipment used in the operator's daily business activities.

The Operator has proposed to reconfigure and is presently in escrow to purchase the subject approximately 5-acre portion of the larger 30-acre parcel which would contain the sand and gravel material area by submitting a Preliminary Plat application (PZ15-13). The Plat would subdivide the subject parcel (KPB Parcel No. 04935007) with the parcel owned by the operator (KPB Parcel No. 04935010).

The applicant has shown the location of the proposed driveway off of Childs Avenue which would be used by trucks and equipment to access the subject material area. Also as required in KMC 14.20.151 the applicant has demonstrated the location of all mapped wetlands and shown the location of the existing vegetation via an aerial photograph of the subject site. Lastly, the applicant has submitted the necessary information in the form of a project narrative and supplemental information on the site plan as required in KMC 14.20.151(b). Pursuant to KMC 14.20.151(c) the applicant will be required to obtain and submit all necessary outside agency permits or submit proof that a permit is not required, from the appropriate State and Federal Agencies prior to issuance of the Conditional Use Permit.

To comply with the above code requirements, the applicant has submitted a copy of a Letter of Intent that will be submitted to the State of Alaska, Department of Natural Resources. This Letter is required because the proposed Gravel Pit would less than 5 acres of disturbed area and less than 50,000 cubic yards of material and less than 5 acres of unreclaimed area. Furthermore, staff has spoken with the Army Corps of Engineers and it has been determined that a permit to remove the material from the mapped wetlands and deposit it in uplands is not required for the proposed project. Therefore, the application is in substantial compliance with the requirements of KMC 14.20.151.

2. *The boundaries of the proposed excavation at its greatest dimensions, including back slopes, are at least two hundred feet (200') from any public right-of-way and at least one hundred fifty feet (150') from other surrounding property lines, except that adjoining permitted surface extraction of natural resources sites are not required to maintain the above one hundred fifty feet (150') excavation between sites.*

Pursuant to KMC 14.20.154(a)(1) the boundaries of the proposed sand and gravel excavation at its greatest dimensions, including back slopes, would be need to be at least two "hundred feet from any road or public right-of-way and at least one hundred fifty feet from other surrounding property lines, except that adjoining permitted surface extraction of natural resources sites are not required to maintain the above one hundred fifty feet excavation between sites. As proposed, the sand and gravel excavation site would comprise an area of approximately 3-acres. Given the relatively small excavation area, the applicant has requested a Variance Permit (PZ15-11) to allow the required setbacks to be reduced.

As shown on the submitted site plan, the applicant has proposed a setback of 80 feet from the present western property line and edge of the Right-of-Way of Childs Avenue (where 200 feet is required), 50 feet from the northern property line (where 150 feet is required) and 15 feet from the southern property line (where 150 feet is required).

The new right-of-way is being required as part of the proposed Preliminary Plat (PZ15-13) to combine the western approximately 5-acre portion of the subject parcel with the adjacent parcel to the south, owned by the operator creating an approximately 8.4-acre parcel.

The new subject parcel would be known as Tract 3 and the remaining approximately 23-acre portion of the parcel would be known as Tract 4 of Jaynes Subdivision Big Mikes Addition. The Conditional Use Permit would also be conditioned to require that a modification to the Conditional Use Permit would be required to enlarge or relocate the proposed sand and gravel pit on Tract 3.

According to the applicant, if the setbacks as they are required by Code are adhered to, it would leave an area that is approximately 1-acre in size to be used for the proposed mining operation. This would make the proposed project not practical according to the operator. It is therefore the opinion of staff that given the size of the proposed sand and gravel pit, that reducing the setbacks to those as proposed would be acceptable and in conformance with KMC 14.20.154(2) and that this finding can be made. In addition, pursuant to those findings outlined in KMC 14.20.180(c) can also be made which further support this finding.

3. *The buffer strips between the excavation site and roadways and property lines contain sufficient natural screening to obscure the entire excavation from sight of roadways and inhabited areas. If there is not sufficient natural screening, the site plan must provide for artificial screening.*

As shown on the submitted site plan, the applicant proposes to construct and operate an approximately 3-acre sand and gravel pit within the approximately 5-acre western portion of the subject 30-acre parcel; Kenai Peninsula Borough Parcel No: 04935007. As proposed, the sand and gravel material site would remove between approximately 15,000 cubic yards and 50,000 cubic yards of material per year, with approximately 85,000 cubic feet of material available above groundwater elevation.

The subject parcel is zoned Heavy Industrial (IH) and has a Land Use designation of Industrial. The intent of the IH Zoning District is to allow for a broad range of industry and commercial uses. As outlined in KMC 14.20.140 the Zoning District is intended to apply to industrial areas which are sufficiently isolated from residential and commercial areas to avoid any nuisance effect.

The subject sand and gravel pit would be located in an area that is not immediately adjacent to residential or commercial areas. Surrounding land uses include an oil and gas drill pad to the west, a welding and fabrication shop to the south with the Kenai Harbor and Wild Pacific Seafood's processing plants to the southwest across Bridge Access Road. To the east would be the remaining portion of Tract 4 which is an undeveloped parcel with two previous gravel pits which appear to be no longer in operation. Immediately adjacent to the north are several approximately 40-acre parcels which are undeveloped. While these parcels are zoned Rural Residential, it is unlikely that they will be developed in the near future as they have a large number of mapped wetlands. Further to the north and northeast and northwest are the subdivisions of Inlet View, Central Heights and Deepwood Park. These three subdivisions are located at a higher elevation than that of the proposed sand and gravel pit. Some of the single-family homes within these subdivisions would potentially have views of the industrial areas surrounding the subject sand and gravel pit including the industrial land-uses along Bridge Access Road and the Kenai Harbor.

As of this writing, several of the property owners within these subdivisions have expressed concern over the proposed gravel pit and its potential impacts to their views and property values. Staff drove through subdivisions to observe if the proposed sand and gravel pit would be visible from any of the public roads or access easements within them. It was found by staff that a portion of the subject Gravel Pit is visible from 404 Rogers Road, an undeveloped parcel owned by the City of Kenai (KPB Parcel No. 04916017).

KMC 14.20.154(3) states in part *"The buffer strips between the excavation site and roadways and property lines contain sufficient natural screening to obscure the entire excavation from sight of roadways and inhabited areas."*

While observing the subject Gravel Pit, staff was able to see what appears to be the approximate 1/3 southern portion of what would become the excavation area. It is the opinion of staff that the remaining 2/3 of the proposed excavation area would be obscured by the natural vegetation currently located between those parcels along the Rogers Road bluff and the subject site. According to the application, the applicant proposes to leave a 50 foot buffer of natural vegetation between the northern property line and the proposed Gravel Pit. The applicant proposes to begin excavation at the northwesterly corner and continue in a southern and eastern direction. Based on the submitted site plan the bottom elevation of the proposed excavation area would be at a depth of 28 feet. Given the height of the existing trees contained along the northern property line, it is the opinion of staff that when the 1/3 southern portion of the excavation area is reached it would be of a significant depth so as to be mostly obscured from view from the natural elevation of those parcels along the bluff of Rogers Road. While a portion of the working face of the Gravel Pit may at times not be completely obscured from view during the fall and winter months due to leaf drop, the proposed Gravel Pit may not be in operation. Furthermore, the applicant has indicated that it may take as many as 10 years to completely excavate the subject site depending on material demand. Therefore, once this area of the excavation area is reached the natural vegetation will be taller, which will further obscure the subject site.

In addition to the natural vegetation screening which will obscure the site, the applicant proposes to install artificial screening in the form of fencing along a western portion of the edge of the right-of-way of Childs Avenue from the southeastern corner of the property to the south portion of the driveway entrance. This fencing will be 6 feet tall and would contain view obscuring material. The applicant proposes to leave the existing vegetation buffer with a distance of 50 feet along the remaining portion of the western property line to obscure the site. Thus, the above finding can be made and substantiated.

4. *The site plan provides that back slopes be a minimum of a 2:1 slope, except for the contiguous working face.*

As shown on the submitted revised site plan on Sheet C4 of the submitted grading cross section, all proposed reclamation slopes will be graded to no steeper than 2:1 slope. Therefore, this finding can be made.

5. *The site plan does not provide for excavation below the water table except where a reasonable method of drainage is available at the particular site or where the proposed future development plan provides for a lake on the site of the excavation.*

According to the submitted site plan and supplemental application materials, the operator will not be excavating below the water table.

On the site plan, the applicant has indicated that they dug two test holes and encountered surface ground water at 8 feet and 12 feet respectively. It is anticipated that surface ground water will pool during the course of the mining activity, which is typical of a surface mining operation. A Letter of Intent for reclamation of the subject sand and gravel pit is being submitted to the State of Alaska Department of Natural Resources Division of Mining, Land and Water, in accordance with Alaska State 27.19. The applicant has indicated that the site will be reclaimed each fall using onsite overburden and top soil and that the excavated slopes will be contoured to no steeper than a 2:1 slope and to a condition that allows for the re-establishment of natural vegetation.

6. *If the excavation is to be below the water table and the site is likely to endanger the public safety, the site plan shall provide for fencing of the work area.*

Pursuant to the submitted application, the applicant has indicated that they will not be excavating below the water table.

7. *The proposed use of land after extraction is completed is feasible and realistic and is a use permitted in the zone in which the property is located.*

Pursuant to Kenai Municipal Code and Alaska Statute 27.19, reclamation of the proposed sand and gravel material site would be required. As shown on the submitted site plan and supplemental application materials. The applicant has demonstrated that they will perform site reclamation activities during the fall of each year and as required by the State of Alaska, Department of Natural Resources, Division of Mining, Land and Water. Currently, neither the applicant nor the operator has indicated what the proposed use of the subject material site will be after the mining operations have been completed. Therefore, staff would refer to those uses allowed either by right, or by a Conditional Use Permit, as shown on the Land Use Table in KMC 14.22.010, within the Heavy Industrial Zone, to determine which uses would be appropriate for the subject material site after the extraction has been completed.

8. *The extraction does not destroy the land for the purposes for which it is zoned.*

The subject parcel and surrounding parcels to the east, south and west are zoned Heavy Industrial. Pursuant to the Land Use Table in KMC 14.22.010, the Surface Extraction of Natural Resources is an allowed use subject to obtaining a Conditional Use Permit. As proposed, the applicant will reclaim and revegetate the excavation areas by seeding and replacement of top soil over the excavated areas. Once subject site has been exhausted of sand and gravel and fully reclaimed, it could then be reused for a use which is allowed within the Heavy Industrial Zone pursuant to the allowed uses shown on the Land Use Table in KMC 14.22.010.

9. *The need for the particular natural resource within the City of Kenai outweighs any detrimental effects the operation may have on surrounding property owners.*

There are currently seven active gravel pits operating within the City of Kenai under either a Conditional Use Permit or under a grandfather status. Each pit varies in size and the amount of gravel material extracted from the pit. Pursuant to KMC 14.20.150(f) the operators are required to submit yearly reports to the Planning and Zoning Division for review. In reviewing each yearly report, the amounts of material that are being extracted is very minimal. It appears from reading the reports, that most of the gravel pits are potentially nearing their expected life span and will begin the process of reclamation soon. In 2014 a total of 7,684 cubic yards of material was removed from all of the operating gravel pits within City limits. According to the applicant, a new source of sand and gravel is needed to support expected upcoming construction projects within the City of Kenai. The applicant plans to excavate between approximately 15,000 cubic yards and 50,000 cubic yards of material each year for a total amount of approximately 85,000 cubic yards. Therefore, there is a need for sand and gravel to support these construction projects and the operation of the proposed sand and gravel pit would outweigh any detrimental effects the operation may have on surrounding property owners. By having an additional source of sand and gravel within the City of Kenai, it will mean that less material would need to be trucked in from surrounding gravel pits, thereby reducing impacts to roadways.

10. *The applicant is the owner of the subject property*

The applicant is the owner of the subject property. The operator owns the adjacent parcel to the south and proposes to apply to transfer the Conditional Use Permit, pursuant to KMC 14.20.158 after the recording the Preliminary Plat (PZ15-13).

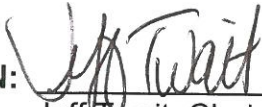
CONDITIONS OF APPROVAL

1. Prior to commencement of extraction of Natural Resources, Applicant shall obtain all necessary State and Federal Permits.
2. Prior to commencement of construction and extraction of Natural Resources, Applicant shall be required to construct a non-climbable 6 foot high fence as shown on the approved site plan along Childs Avenue.
3. The only processing of material that shall take place on the subject site is screening. There shall be no crushing of material or operation of a concrete or asphalt plant on the subject site.
4. Material extraction site shall be limited to 3-acres in size and shall be located on the subject site as shown on the approved site plan. Any future expansion beyond 3-acres of the material extraction site shall require the modification of the Conditional Use Permit.

5. There shall be no extraction of Natural Resources beyond the ground water table.
6. Hours of operation shall be 8 am to 8 pm for the moving of materials.
7. Applicant shall file an annual report for the Conditional Use Permit as set forth in Kenai Municipal Code 14.20.155.
8. Prior to recording the Plat (PZ15-13), the applicant shall submit an application to the City of Kenai, Planning and Zoning Division for a Transfer of the Conditional Use Permit for the Gravel Pit (PZ15-10).
9. Applicant shall employ the use of dust control measures to ensure the material site and Childs Avenue remain dust free. Dust control shall include the daily use of a water truck and placement of Calcium Chloride on Childs Avenue. A water truck shall also be used to control dust from the working face of the Gravel Pit.

NOW, THEREFORE, BE IT RESOLVED, BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI THAT THE PROPOSED SURFACE EXTRACTION OF NATURAL RESOURCES MEETS THE CONDITIONS REQUIRED FOR SAID OPERATION AND THEREFORE THE COMMISSION DOES AUTHORIZE THE ADMINISTRATIVE OFFICIAL TO ISSUE THE APPROPRIATE PERMIT.

PASSED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI, ALASKA, ON THIS 27th DAY OF MAY, 2015.

CHAIRPERSON: 
 Jeff Twait, Chairperson

ATTEST: 
 Sandra Modigh, City Clerk





"Village with a Past, City with a Future"

210 Fidalgo Avenue, Kenai, Alaska 99611-7794

Telephone: 907-283-7535 / Fax: 907-283-3014

www.kenai.city

CITY OF KENAI
PLANNING AND ZONING COMMISSION
RESOLUTION NO. PZ16-14
TRANSFER OF CONDITIONAL USE PERMIT PZ15-10

A RESOLUTION OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI **GRANTING** A REQUEST FOR A TRANSFER OF CONDITIONAL USE PERMIT TO:

NAME: MICHAEL S. BROWN

USE: Construction and Operation of a Gravel Pit for the Extraction of Natural Resources

LOCATED: Tract Three (3) Jaynes Subdivision Big Mikes Addition (prior to subdividing the property was described as the NW ¼ SE ¼, Section 4, Township 5 North, Range 11 West, Excluding Jaynes Subdivision) – 601 Childs Avenue

KENAI PENINSULA BOROUGH PARCEL NO: 04935012

WHEREAS, the Commission finds:

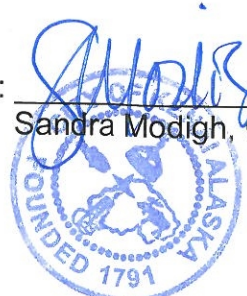
1. That an application meeting the requirements of Sections 14.20.150(i)(5) and 14.20.158(a) has been submitted to the City of Kenai on January 15, 2016;
2. This request is on land zoned as IH - Heavy Industrial;
3. That the applicant has demonstrated with plans and other documents that they can and will meet the following specific requirements and conditions in addition to existing requirements:
 - a. Prior to commencement of extraction of Natural Resources, Applicant shall obtain all necessary State and Federal Permits.
 - b. Prior to commencement of construction and extraction of Natural Resources, Applicant shall be required to construct a non-climbable 6 foot high fence as shown on the approved site plan along Childs Avenue.

- c. The only processing of material that shall take place on the subject site is screening. There shall be no crushing of material or operation of a concrete or asphalt plant on the subject site.
- d. Material extraction site shall be limited to 3-acres in size and shall be located on the subject site as shown on the approved site plan. Any future expansion beyond 3-acres of the material extraction site shall require the modification of the Conditional Use Permit.
- e. There shall be no extraction of Natural Resources beyond the ground water table.
- f. Hours of operation shall be 8 am to 8 pm for the moving of materials.
- g. Applicant shall file an annual report for the Conditional Use Permit as set forth in Kenai Municipal Code 14.20.155.
- h. Prior to recording the Plat (PZ15-13), the applicant shall submit an application to the City of Kenai, Planning and Zoning Division for a Transfer of the Conditional Use Permit for the Gravel Pit (PZ15-10).
- i. Applicant shall employ the use of dust control measures to ensure the material site and Childs Avenue remain dust free. Dust control shall include the daily use of a water truck and placement of Calcium Chloride on Childs Avenue. A water truck shall also be used to control dust from the working face of the Gravel Pit.
- j. Applicant must comply with all Federal, State and local regulations.
- k. If there is a change of use for the above described property, a new Conditional Use Permit must be obtained, pursuant to KMC 14.20.150(i)(5).

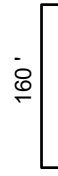
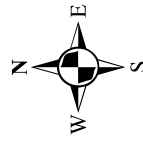
NOW, THEREFORE, BE IT RESOLVED, BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI THAT THE APPLICANT HAS DEMONSTRATED THAT THE CONSTRUCTION AND OPERATION OF A GRAVEL PIT FOR THE EXTRACTION OF NATURAL RESOURCES MEETS THE CONDITIONS REQUIRED FOR SAID OPERATION AND THEREFORE THE COMMISSION DOES AUTHORIZE THE ADMINISTRATIVE OFFICIAL TO ISSUE THE APPROPRIATE PERMIT.

PASSED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI, ALASKA, ON THIS 25TH DAY OF MAY, 2016.

CHAIRPERSON: Jeff Twait ATTEST: Sandra Modigh, City Clerk



Tract 3,
 Jaynes Subdivision
 Big Mikes Addition
 (Kenai Peninsula Borough
 Parcel Number
 04935012)



1 inch equals 189 feet

The information depicted here on is for graphic representation only of the best available sources. The City of Kenai assumes no responsibility for errors on this map.

Date: 5/3/2019



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ACTION AGENDA
KENAI CITY COUNCIL – REGULAR MEETING
MAY 1, 2019 – 6:00 P.M.
KENAI CITY COUNCIL CHAMBERS
210 FIDALGO AVE., KENAI, AK 99611
<http://www.kenai.city>

A. CALL TO ORDER

1. Pledge of Allegiance
2. Roll Call
3. Agenda Approval
4. Consent Agenda (*Public comment limited to three (3) minutes per speaker; thirty (30) minutes aggregated*)

All items listed with an asterisk () are considered to be routine and non-controversial by the council and will be approved by one motion. There will be no separate discussion of these items unless a council member so requests, in which case the item will be removed from the consent agenda and considered in its normal sequence on the agenda as part of the General Orders.

B. SCHEDULED PUBLIC COMMENTS (*Public comment limited to ten (10) minutes per speaker*)

C. UNSCHEDULED PUBLIC COMMENTS (*Public comment limited to three (3) minutes per speaker; thirty (30) minutes aggregated*)

D. PUBLIC HEARINGS

1. **FAILED AS AMENDED. Ordinance No. 3061-2019** – Amending Kenai Municipal Code 14.20.320 - Definitions, 14.20.330 - Standard for Commercial Marijuana Establishments and 14.22.010 - Land Use Table, to Incorporate Onsite Consumption of Marijuana at Retail Marijuana Establishments into the City Of Kenai's Code of Ordinances. (Legal)
2. **ENACTED UNANIMOUSLY AS AMENDED. Ordinance No. 3062-2019** – Increasing FY2019 General Fund Estimated Revenues and Appropriations by \$20,859 And FY2020 General Fund Estimated Revenues And Appropriations by \$35,418 in the General Fund Parks, Recreation, and Beautification Department for the Receipt of a Grant from the United States Environmental Protection Agency Passed Through the State of Alaska Department of Environmental Conservation for Bacteria Level Monitoring on the City's Beaches during the 2019-2020 Personal Use Fishery. (Administration)
3. **ADOPTED UNANIMOUSLY. Resolution No. 2019-27** – Pertaining to the Authorized Investments of, the Investment Allocations of, and Establishing Appropriate Benchmarks to Measure Performance of the City's Permanent Funds for Calendar Year 2019. (Administration)

E. MINUTES

1. **APPROVED BY THE CONSENT AGENDA.** *Regular Meeting of April 17, 2019
2. **APPROVED BY THE CONSENT AGENDA.** *Work Session of April 18, 2019
3. **APPROVED BY THE CONSENT AGENDA.** *Special Meeting of April 23, 2019

F. UNFINISHED BUSINESS – None.

G. NEW BUSINESS

1. **APPROVED BY THE CONSENT AGENDA.** *Action/Approval – Bills to be Ratified. (Administration)
2. **APPROVED BY THE CONSENT AGENDA.** *Action/Approval – Purchase Orders Over \$15,000. (Administration)
3. **INTRODUCED BY CONSENT AGENDA/PUBLIC HEARING SET FOR 05/15/19.** *Ordinance No. 3063-2019 – Adopting the Annual Budget for the Fiscal Year Commencing July 1, 2019 and Ending June 30, 2020 and Committing \$500,000 of General Fund, Fund Balance for Capital Improvements, Amending the Salary Schedule in Kenai Municipal Code Chapter 23.55- Pay Plan, Amending Employee Classifications in Kenai Municipal Code Chapter 23.50, and Amending Communication Department Uniform Allowance in Kenai Municipal Code Chapter 23.55. (Administration)
4. **INTRODUCED BY CONSENT AGENDA/PUBLIC HEARING SET FOR 05/15/19.** *Ordinance No. 3064-2019 – Increasing Estimated Revenues and Appropriations by \$339.90 in the General Fund – Police Department for State Traffic Grant Overtime Expenditures. (Administration)
5. **INTRODUCED BY CONSENT AGENDA/PUBLIC HEARING SET FOR 05/15/19.** *Ordinance No. 3065-2019 – Accepting and Appropriating a Volunteer Fire Assistance (VFA) Grant From the United States Department of Agriculture Forest Service Passed Through the State of Alaska Division of Forestry for the Purchase of Forestry Firefighting Equipment. (Administration)

H. COMMISSION/COMMITTEE REPORTS

1. Council on Aging
2. Airport Commission
3. Harbor Commission
4. Parks and Recreation Commission
5. Planning and Zoning Commission
6. Beautification Committee
7. Mini-Grant Steering Committee

I. REPORT OF THE MAYOR

J. ADMINISTRATION REPORTS

1. City Manager
2. City Attorney
3. City Clerk

K. ADDITIONAL PUBLIC COMMENT

1. Citizens Comments (*Public comment limited to five (5) minutes per speaker*)
2. Council Comments

L. EXECUTIVE SESSION – None.

M. PENDING ITEMS – None.

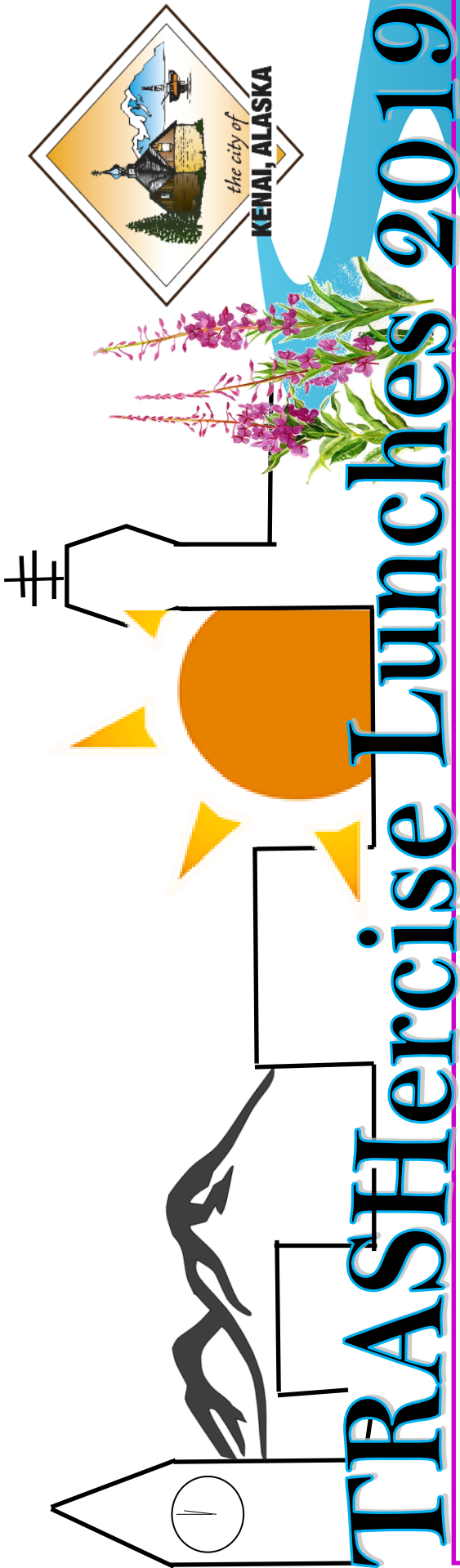
N. ADJOURNMENT

INFORMATION ITEMS

1. Purchase Orders between \$2,500 and \$15,000 for Council Review
2. Cook Inlet Regional Citizen’s Advisory Council Annual Meeting Update
3. Trans-Foreland Pipeline Company, LLC Kenai LNG Cool Down Project
4. Boys & Girls Club Annual Golf Classic

The agenda and supporting documents are posted on the City’s website at www.kenai.city. Copies of resolutions and ordinances are available at the City Clerk’s Office or outside the Council Chamber prior to the meeting. For additional information, please contact the City Clerk’s Office at 907-283-8231.

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Are you looking for an opportunity to exercise with purpose? The City of Kenai is sponsoring a series of lunch time hikes with the purpose of cleaning up our city and getting some exercise at the same time - **TRASHercise!** Please join us as we enjoy our beautiful city and help keep our community clean at the same time.

Details for each TRASHercise are listed below:

- **All TRASHercise events are from Noon - 1:00 p.m.**
- The City will provide gloves and bags.
- All TRASHercise events are pending suitable weather conditions.
- Look for the Kenai Parks & Recreation truck, grab some gloves and a bag, and we'll see you on the trail.
- For additional information call 907-283-8262 or 907-283-8235.
- Please avoid picking up any sharps and notify a City employee of all sharps locations.

| | |
|--|--|
| May 23: Bernie Huss to Safeway 120 Main Street Loop (meet at Main St. Loop entrance) | August 8: Kenai Municipal Park 301 S Forest Dr. (meet on the playground) |
| June 13: Daubenspeck Family Park 400 Marathon Road (meet by the restrooms) | August 22: Kenai Greenstrip 400 Main Street Loop (meet at the shelter) |
| June 27: Kenai North Beach 600 S Spruce Street (meet at Spruce Parking Lot) | September 12: Shqui Tsatnu Trail (meet at 4th Ave. trail head) |
| July 11: Blue Star Memorial to Leif Hansen Memorial Park (meet in front of Paradisos) | September 26: Kenai Multi-Purpose Facility Area 9775 Kenai Spur Hwy (meet in in parking lot) |
| July 25: Old Town Park and Erik Hansen Scout Park 816 Cook Ave (meet at Old Town Park) | October 10: Millennium Square 235 Spur View Dr. (meet by the Bluff Gazebo) |