

**CITY COUNCIL—BOROUGH ASSEMBLY
JOINT WORK SESSION AGENDA**

**Tuesday, August 23, 2016,
Kodiak Public Library
7:30 p.m.
(City Chairing)**

Joint work sessions are informal meetings of the City Council and Borough Assembly where elected officials discuss issues that affect both City and Borough governments and residents. Although additional items not listed on the joint work session agenda are sometimes discussed when introduced by elected officials, staff, or members of the public, no formal action is taken at joint work sessions and items that require formal action are placed on a regular City Council and/or Borough Assembly meeting agenda. Public comments at work sessions are NOT considered part of the official record. Public comments intended for the “official record” should be made at a regular City Council or Borough Assembly meeting.

1. Public Comments (limited to 3 minutes each)
2. Building Codes/Building Inspection Program MOA.....1
3. Consolidation of City and Borough Governments.....13
4. Communications Between the City and Borough
5. Update on Governor Walker’s October Visit to Kodiak

FUTURE DISCUSSION ITEMS

- Invitation to Legislators to Visit Kodiak
- Lands Committee Update
- Sharing of Information – City and Borough Strategic Plans
- Updates From the Borough’s Marijuana Task Force and City’s Marijuana Advisory Committee

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Office of the City Manager

710 Mill Bay Road, Room 113, Kodiak, Alaska 99615

MEMORANDUM

To: Mayor Branson and City Councilmembers
From: Aimée Kniazowski, City Manager
Thru: Mike Tvenge, Deputy City Manager
Date: August 15, 2016
Subject: Building Inspection Program

SUMMARY: During the August 11, 2016, regular Council meeting, the Council postponed the vote to terminate the joint Building Inspection Program MOA. This postponement was intended to allow for discussion between the Borough and the City elected officials at the August 23 joint work session to determine the best path forward. City Administration continues to recommend initiation of the termination procedure as described in Section 9 of the MOA, if mutually agreeable changes do not occur.

PREVIOUS COUNCIL ACTION: The City Council discussed the Borough's decision to adopt the 1997 Uniform Building Code at its August 9 Council work session and postponed the vote to terminate the program at its August 11 regular meeting.

DISCUSSION: The City and Borough conduct building inspections within the Kodiak road system through a 1997 Memorandum of Agreement. The agreement strives to maintain identical regulations that include but are not limited to: Uniform Building Codes, National Electrical Codes, Uniform Plumbing Codes, Driveway Permits and ordinances providing for fire safety review, approval of plans and specifications, and the enforcement of State fire statutes and regulations.

An explanation of the Borough's decision to adopt the 1997 UBC centered on affordable housing. The following are examples of financing requirements.

- Alaska Housing Finance Corporation has adopted the 2012 International Residential Code.
- Building inspections are an AHFC requirement; if the City does not provide inspections, someone licensed, insured, and certified must. This triggers an added requirement for a PUR-102 (Attachment). Without the PUR-102, the home is ineligible for AHFC financing until it is at least five years old and then would only be eligible under the Non-conforming II Program. Non-conforming II means benefits of the rural program would be unavailable to those homeowners/purchasers i.e. lower down payment with no mortgage insurance, rural non-owner occupancy allowance.
- United States Department of Agriculture-Rural Development has similar requirements for home loans. USDA has adopted the 2012 IRC also.

Additional concerns of continuing the MOA at this time:

- The City of Kodiak maintains an agreement with the State of Alaska Fire Marshall to maintain and enforce the adopted building and fire codes. 2012 IRC and 2009 IFC are the minimum standards adopted.
- If the MOA is terminated, the City is required to inform the State Fire Marshall separating the Fire Marshall's Deferment of the City to inspect outside of the City. This means the State Fire Marshall would then conduct the Borough inspections.
- The City maintains general liability insurance as a requirement of the MOA. A concern of the City's insurance broker states "the change in code enforcement is a fundamental increase in exposure and either excludes the activity or increases the insurance premium. I recommend the City prepare a disclaimer and present it to every home owner requesting an inspection. The disclaimer should clearly state the 1997 UBC is not current and the homeowner may encounter problems related to this code inspection."
- The City and Borough agree to indemnify and hold harmless each other with respect to uninsured claims or damages associated with implementation of the agreement.(Section 6.c)
- The City Building officials have spoken out against the adoption of the 1997 UBC and do not want to inspect different building codes nor feel it necessary.
- The Joint Building Code Review Committee addressed the Borough Assembly and spoke against the 1997 UBC ordinance.

ALTERNATIVES:

- 1) Council may vote to terminate the agreement as provided in Section 9, which allows termination by either party upon ninety (90) days advance written notice to the other party.
- 2) Council may increase the notification and terminate the MOA beyond 90 days.
- 3) Council may negotiate a new agreement with the Borough.

Terminating the agreement in 90 days or negotiating a new agreement will limit the risks and concerns identified above.

CITY MANAGER'S COMMENTS: I recommend the Assembly and Council direct the managers to negotiate a new agreement to be approved by both governing bodies, if legally required. The current MOA is dated 1997, and changes within this agreement need to occur if we are to move forward jointly for the betterment of the Kodiak community. If this is not mutually acceptable, the current MOA would not be acceptable to the City as written.

ATTACHMENTS:

- A) Memorandum of Agreement between KIB and the City
- B) AHFC PUR-102

MEMORANDUM OF AGREEMENT
between the
KODIAK ISLAND BOROUGH and the CITY OF KODIAK

BUILDING INSPECTION PROGRAM

On April 15, 1988, the Kodiak Island Borough and the City of Kodiak established a single program for the inspection of buildings within the jurisdiction of both governments. In the past there has been one building inspector/official for each local government. This memorandum of agreement (MOA) reestablishes the parameters of the single building inspection program that serves the residents of both jurisdictions, and replaces the original Building Inspection MOA of 1988.

Objectives

1. To provide for a single building inspection program for the City of Kodiak and the Kodiak Island Borough.
2. To ensure a consistent application of building regulations in the City of Kodiak and the Kodiak Island Borough.
3. To reduce the total cost of building inspection services in the Kodiak Island Borough and the City of Kodiak.
4. To provide an economical, efficient, and effective building inspection program for residents of the Kodiak Island Borough and the City of Kodiak.

Points of Agreement

1. The Kodiak Island Borough (hereinafter "Borough") hereby contracts with the City of Kodiak (hereinafter "City") for building inspection services. Personnel aspects of the program are the responsibility of the City, and the building official and assistant building official shall be employees of the City.
 - A. This service will include the following:
 - (1) a full-time building official;
 - (2) a full-time assistant building official;
 - (3) a half-time administrative assistant;
 - (4) all other necessary and typical functions associated with an operational building inspection program;
 - (5) administration and enforcement of Borough Code Title 15, Buildings and Construction, including issuing permits, checking plans, performing field inspections, maintaining records of each permit, and maintaining statistical records;

- (6) records will be kept on each building permit and will include at a minimum, the following applicable information: building permit applications, approved plans and specifications; the as-built site plan; compaction report on engineered fills; and inspection reports on all inspections performed; and
 - (7) issuance of a certificate of occupancy and/or final inspection report when construction, for which a permit was issued, is completed. The borough assessor shall be provided with a copy of all certificates of occupancy and/or final inspection reports on a monthly basis.
- B. The Borough will supply the office space for the building inspection program.
 - C. The City will supply the vehicle for the building inspection program.
 - D. The building inspection office will be tied into both the Borough and the City telephone and remote communication systems, and the Borough AS/400 computer for access to property record files. Building inspection program staff will implement the HTE Building Permit software application once it has been installed and training has been provided by the Borough.
 - E. Monthly and annual reports of building permit activities will be submitted on forms agreed to by the Borough and the City.
2. In all cases, the building official will be responsible for ensuring that all structures are in compliance with adopted codes. The Kodiak Island Borough or the City of Kodiak may, on a case-by-case basis, request from the building official approval to use alternative personnel for ensuring that public construction projects meet adopted codes. The building official may deny approval for the use of alternative personnel based on the lack of appropriate qualifications of the personnel. All code compliance inspection reports or similar records generated for public construction projects shall become part of the building file maintained in the building inspection program office.

If approval is granted by the building official for the use of alternative personnel, a permit fee will not be charged for the portion of the project inspected by the alternative personnel; however, the value of any portion of a public construction project inspected by alternative personnel will be included in the project owner's portion of the permit value calculations for building inspection program operations. If building inspection program staff perform code compliance inspections for a public construction project, then the project will be charged the applicable building permit, electrical permit, or plumbing permit fees, and the project or portion of the project inspected will not be included in the permit value calculations for building inspection program operations.

The cost of the building inspection program will be split between the City and the Borough based on the dollar value of the permits issued inside the City (City responsibility) and outside the City (Borough responsibility). Payments by the Borough shall be made promptly upon billings submitted by the City.

3. The Community Development Department will work with the building inspection program office to ensure adherence to this MOA is implemented. This MOA is not intended to replace current day-to-day communications between staff, which are encouraged to continue. All policy issues,

whether City, Borough, or joint, will be referred to the Borough Mayor and City Manager for joint resolution.

- A. The MOA for zoning compliance is incorporated, in total, in this MOA and is labeled Appendix A.
 - B. The MOA for the building fire safety inspection program for the Kodiak road system is incorporated, in total, in this MOA and is labeled Appendix B.
4. The Borough and the City shall review and revise their respective Building Codes and strive to maintain identical regulations that include, but are not limited to, the following:
- A. ~~ICBO Uniform Building Codes;~~
 - B. National Electrical Code;
 - C. Uniform Plumbing Code;
 - D. Driveway permits;
 - E. Ordinances providing for fire safety review and approval of plans and specifications, and the enforcement of state fire statutes and regulations; and
 - F. Building Valuations and Fee Schedules.
5. The Borough shall adopt an ordinance that shall require the identification of lot corners in the field prior to commencement of construction.
6. Insurance
- A. The City shall provide liability insurance. Upon request the City shall provide the Borough with evidence of the insurance coverage in force at any time. If the Borough should conclude that the insurance coverage obtained by the City is inadequate to protect its interest, the Borough shall give the City written notice of its concerns and shall request that the insurance coverage maintained by the City be broadened or increased in certain particulars. If the City fails to agree to the Borough's request and obtain the broadened, increased coverage within thirty (30) days after receipt of the request, then the Borough may either obtain such additional insurance coverage as it has requested and deduct the proven cost thereof from any payments otherwise due to the City or terminate this agreement in accordance with Section 9.
 - B. Any liability insurance policy obtained by either the City or the Borough shall contain a waiver of all subrogation claims against the other party.
 - C. The Borough agrees to indemnify and hold the City harmless from any and all uninsured claims or damages arising out of actions or omissions of the staff of the building inspection

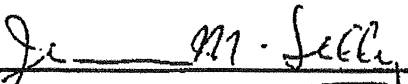
program which are associated primarily with implementation of this agreement with respect to property lying outside of the City and the City agrees to indemnify and hold harmless the Borough from any and all uninsured claims or damages arising out of actions or omissions of the staff of the building inspection program which are associated primarily with implementation of this agreement with respect to property lying within the City.

7. The Borough and the City shall separately assume any legal costs associated with building inspection program enforcement within their respective jurisdictions.
8. It is the responsibility of the building inspection program staff to initiate Borough and City building and related code updates. All Borough and City code revisions that may affect the building inspection program shall be provided to the building official for review and comment.
9. This agreement may be terminated by either party upon ninety (90) days advance written notice to the other party.


DATED this 16th day of May, 1997.

KODIAK ISLAND BOROUGH

CITY OF KODIAK




Jerome M. Selby, Mayor




William D. Jones, City Manager

Attest:

Attest:



Judith A. Nielsen
Acting Borough Clerk



Orlan Z. Mauler
Deputy City Clerk



ZONING COMPLIANCE PROGRAM

Appendix A of the Building Inspection Program MOA

On March 1, 1984, the Kodiak Island Borough(Borough) and the City of Kodiak (City) established a coordinated procedure for the enforcement of zoning regulations within the city limits. This Appendix replaces the original Zoning Compliance MOA of 1984, and provides a procedure for the inspection of zoning requirements through the building inspection program.

Objectives

1. To provide zoning compliance inspections in conjunction with building inspections.
2. To ensure a coordinated and consistent zoning compliance inspection program.
3. To provide a specific and acceptable process that defines the responsibilities of the Kodiak Island Borough and the City of Kodiak for implementing zoning compliance inspections as a function of the building inspection program.

Points of Agreement

1. No building permit will be issued without written zoning authorization from the Borough, except as may be otherwise provided for in the Borough Code.
2. Written zoning authorization by the Borough will be on a form provided by the Borough and printed in a format mutually agreed to by the City and the Borough. The format shall include at a minimum the following information:
 - A. property corner markers with identification or other acceptable markers must be in place and available for verification of setback distances; and
 - B. applicant acknowledgment that the information provided on the authorization is correct, and that the applicant agrees to comply with all ordinances and laws regulating zoning compliance.
3. The written zoning authorization will be specific in its identification of regulations that require compliance, including any approvals or conditions specified by the Borough Planning and Zoning Commission.
4. While conducting site inspections as part of the building permit process, it will be the responsibility of the building inspection program staff to note all violations of the written zoning authorization and to inform both the applicant and the Borough Community Development Department of any violations including, but not limited to, the following:
 - a. setback requirements;

- b. height restrictions;
 - c. off-street parking requirements and development standards; and
 - d. permitted uses.
5. In cases of confusion or conflict between the applicant and the building inspection program staff over either the written zoning authorization or the imposition of specific zoning regulations, the issue will be brought to the Community Development Department for resolution.
6. In cases when there are violations of both the zoning and building codes, the Community Development Department and building inspection program staffs shall engage in joint enforcement action to the greatest extent possible. This includes, but is not limited to, joint signatures on violation letters and joint site inspections.

BUILDING FIRE SAFETY INSPECTION PROGRAM

Appendix B of the Building Inspection Program

The Kodiak Island Borough and the City of Kodiak wish to establish a coordinated building fire safety inspection program throughout each respective jurisdiction.

Objective

To enforce State fire safety laws as established in AS 18.70 and AS 18.72 and all regulations adopted pursuant to these statutes through a local building fire safety program.

Points of Agreement

1. It will be the responsibility of the City of Kodiak Fire Department to administer and enforce the requirements of the building fire safety program on the contiguous Kodiak road system.
2. Inspections requested by the Borough will be scheduled in as timely a manner as possible by the City Fire Department.
3. The Borough shall be financially responsible for the building fire safety inspection program outside the boundaries of the City.

Legal description: _____

4. COMPLETION OF INSTALLATION OF INSULATION AND VAPOR BARRIER

Printed Name Signature License #* Date

5. CONDITIONAL APPROVAL

Items to be completed: _____

To be completed by: _____

Printed Name Signature License #* Date

6. FINAL APPROVAL

Printed Name Signature License #* Date

*License # is the inspector's Registration # under AS 08.18 and AAC 22

OWNER-BUILDER'S CERTIFICATION

Under penalty of perjury, by my signature below, I certify that the required inspections have been completed and to the best of my knowledge the building meets or exceeds standards set forth under AS 18.56.300 and 15 AAC 150.030. I further certify that I qualify as an owner-builder under AS 08.18.161(12) for I have not built a single family building, duplex, triplex, four-plex or commercial building within the prior two years.

Owner's Signature: _____ Date: _____

Owner-Builder's Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Before me, a Notary Public in and for the State of Alaska, _____

has executed the foregoing document of his/her own free will. _____

(Notary Signature)

My Commission expires: _____

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Introduced by: Assembly Member Crow
Requested by: Assembly Member Crow
Drafted by: Borough Clerk/Assembly
Member Crow
Introduced on: 07/21/2016
Amended: 08/04/2016
Public hearing: 08/04/2016
Adopted on: 08/04/2016

**KODIAK ISLAND BOROUGH
ORDINANCE NO. FY 2017-02**

**A ORDINANCE OF THE KODIAK ISLAND BOROUGH ASSEMBLY
AUTHORIZING THE SUBMISSION OF AN ADVISORY QUESTION
TO THE QUALIFIED VOTERS OF THE BOROUGH AT THE
OCTOBER 4, 2016 REGULAR BOROUGH ELECTION TO
DETERMINE WHETHER THE PUBLIC SUPPORTS THE IDEA OF
CONSOLIDATING THE KODIAK ISLAND BOROUGH AND THE
CITY OF KODIAK INTO A SINGLE UNIT OF GOVERNMENT**

WHEREAS, one of the priorities stated in the adopted Strategic Plan Resolution No. FY2016-32 of the Assembly is to explore the potential impacts of consolidation; and

WHEREAS, one of the policies adopted in the January 2008 KIB Comprehensive Plan Update is to consider consolidation of local governmental functions of agencies, including among the City of Kodiak and Kodiak Island Borough; and

WHEREAS, it would be of the best interest of the residents of the community to explore the potential impacts of consolidation; and

WHEREAS, consolidating the Kodiak Island Borough and the City of Kodiak into a single unit of home rule government may result in a more efficient single unit of government; and

WHEREAS, the proposed question below is designed to allow the electorate to advise the Assembly as to whether they support the idea of consolidating the Kodiak Island Borough and the City of Kodiak into a single unit of government; and

WHEREAS, the proposed question does not place any requirements on the Assembly, but rather an advisory from the electorate; and

NOW, THEREFORE BE IT RESOLVED BY THE ASSEMBLY OF THE KODIAK ISLAND BOROUGH that the Borough Clerk shall submit a non-binding advisory question to the qualified voters at the October 4, 2016, regular Borough Election

ADVISORY QUESTION NO. 1

Advisory Vote On The Idea Of Consolidating Governments

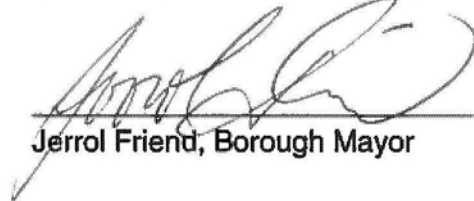
Should the Kodiak Island Borough pursue the idea of consolidating the Kodiak Island Borough and the City of Kodiak into a single unit of government?

Yes
 No

51
52

**ADOPTED BY THE ASSEMBLY OF THE KODIAK ISLAND BOROUGH
THIS FOURTH DAY OF AUGUST, 2016**

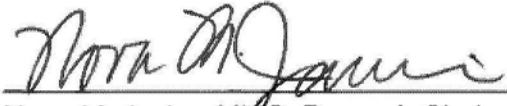
KODIAK ISLAND BOROUGH



Handwritten signature of Jerrol Friend in black ink, written over a horizontal line.

Jerrol Friend, Borough Mayor

ATTEST:



Handwritten signature of Nova M. Javier in black ink, written over a horizontal line.

53 **Nova M. Javier, MMC, Borough Clerk**