

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

Wednesday, June 21, 2017

Kodiak Library Multi-Purpose Room

7:30 p.m.

(City Chairing)

*Joint work sessions are informal meetings of the Borough Assembly and City Council where elected officials discuss issues that affect both Borough and City 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 Borough Assembly and/or City Council 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 Borough Assembly or City Council meeting.*

**1. Public Comments**

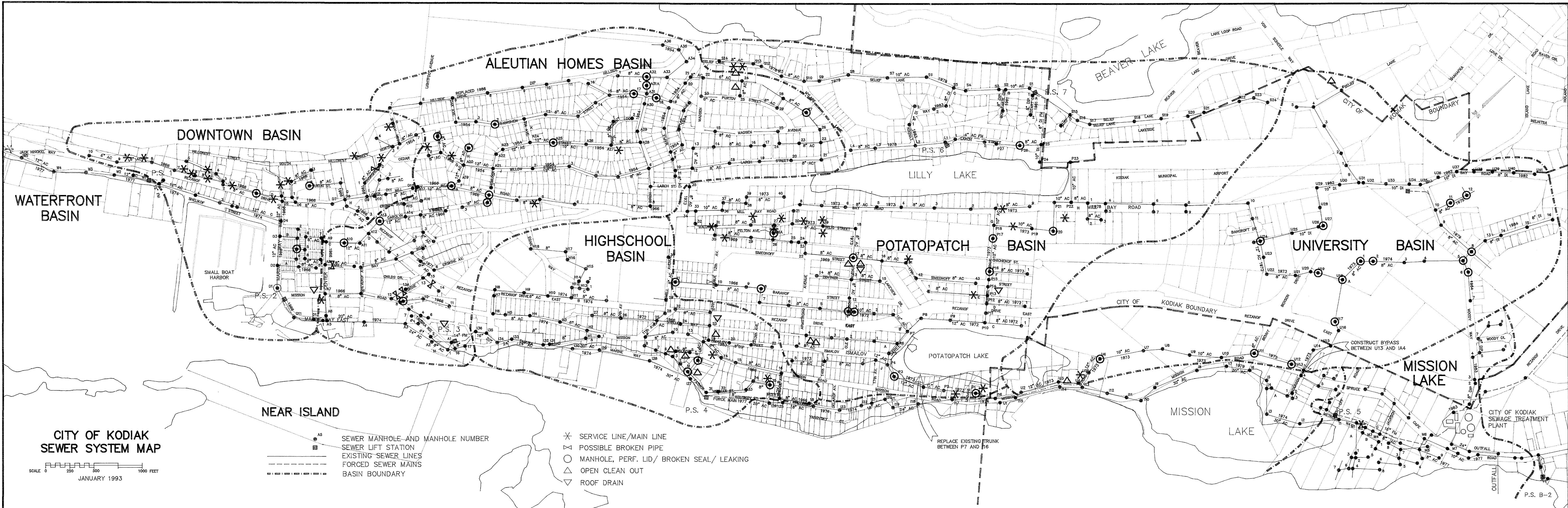
**2. Agenda Items**

- a) Legislators Visit to Kodiak (Representative Stutes via teleconference)
- b) Water and Sewer Infrastructure Presentation.....1
- c) Discussion of Ordinance to Reduce the Use of Disposable Plastic Shopping Bags .....5
- d) Fisheries Work Group Update
- e) Opioid Community Action Plan
- f) Tobacco Tax (KIB)

**3. Future Discussion Items**

- a) Natives of Kodiak Land Development
- b) Accessory Dwelling Units Update
- c) Marijuana Regulations Update
- d) Introduction of Kodiak Wildlife Refuge Manager

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**CITY OF KODIAK  
SEWER SYSTEM MAP**

SCALE 0 250 500 1000 FEET  
JANUARY 1993

- |           |                                  |   |  |
|-----------|----------------------------------|---|--|
| ● AS      | SEWER MANHOLE AND MANHOLE NUMBER | ✱ | SERVICE LINE/MAIN LINE                   |
| ■         | SEWER LIFT STATION               | ⊠ | POSSIBLE BROKEN PIPE                     |
| —         | EXISTING SEWER LINES             | ○ | MANHOLE, PERF. LID/ BROKEN SEAL/ LEAKING |
| - - -     | FORCED SEWER MAINS               | △ | OPEN CLEAN OUT                           |
| - · - · - | Basin Boundary                   | ▽ | ROOF DRAIN                               |

REPLACE EXISTING TRUNK BETWEEN P7 AND #16

CONSTRUCT BYPASS BETWEEN U13 AND IA4

DRAWING NUMBER

P.S. B-2



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# Kodiak Island Borough

## Solid Waste Advisory Board

710 Mill Bay Road  
Kodiak, Alaska 99615  
Reduce Reuse Recycle



**Date:** June 6, 2017

**To:** Borough Mayor Dan Rohrer, Borough Assembly Members, Borough  
Manager Michael Powers, Borough Clerk Nova Javier

**From:** Nick Szabo, Chairman

**RE:** Plastic Bag Ordinance

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The Solid Waste Advisory Board (SWAB) met on June 5, 2017 and voted to recommend the adoption of the attached ordinance banning the distribution of disposable plastic shopping bags in Kodiak. Several members of the public attended the meeting and spoke in favor of the ordinance. The passage of the ordinance is also supported by the Borough Engineering and Facilities Department.

As most of the retail establishments are within the Kodiak city limits, the SWAB recommends that the Borough Assembly meet with the Kodiak City Council to urge their cooperation in adopting a similar ordinance for the City of Kodiak.

Introduced by: Assembly Members Van Daele and Symmons

Drafted by: Assembly Member Van Daele and SWAB

Requested by: SWAB

Introduced on: xx June 2017

Adopted on:

**KODIAK ISLAND BOROUGH**

**ORDINANCE NO. FY2017-XX**

An Ordinance of the Assembly of the Kodiak Island Borough to reduce the use of disposable plastic shopping bags.

**WHEREAS**, the use of disposable plastic shopping bags in Kodiak creates burdens on the local solid waste disposal system and degrades the environment; and,

**WHEREAS**, to decrease the use of disposable plastic shopping bags in Kodiak, it is necessary to restrict and mitigate such use; and,

**WHEREAS**, it is in the best interest of the Kodiak Island Borough and its residents to reduce the use of disposable plastic shopping bags in Kodiak.

**NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KODIAK ISLAND BOROUGH THAT:**

Section 1: Kodiak Island Borough Code Title 8, is hereby enacted to read as follows:

Title 8.20.015 Disposable Plastic Shopping Bags

- A. The purpose of this section is to reduce the generation of waste from disposable plastic shopping bags.
- B. On February 14<sup>th</sup>, 2018, disposable plastic shopping bags will no longer be permitted for distribution in the Kodiak Island Borough.
- C. Bags used by customers inside stores to package bulk items such as fruit, vegetables, nuts, grains, candy, or small hardware items, such as washers and bolts; bags used to contain dampness or leaks from



items such as frozen foods, meat or fish, flowers or potted plants; bags used to protect prepared foods or bakery goods; bags provided by pharmacists to contain prescription drugs; laundry or dry cleaning bags; bags sold for consumer use off the seller's premises for such purposes as the collection and disposal of garbage, pet waste, or yard waste; and newspaper bags are exempt from the requirements of this chapter.

D. For the immediate preservation of the public peace, health or safety the provisions of this chapter may be suspended.

#### 8.20.020 Definitions

As used in this chapter;

A. "litter" means all waste material of every kind and nature, including, but not limited to, disposable packages, containers, or disposable plastic shopping bags, rubbish, garbage, junk, paper, paper products, rock, gravel, or dirt. [Ord. 87-16-O §2, 1987; Ord. 84-63-O, 1984; Ord. 82-49-O(A) §1, 1982. Formerly §8.12.020].

B. "buyer" means a person who is a purchaser of goods or services.

C. "disposable plastic shopping bag" means a bag made from plastic and/or any plastic material marketed or labeled as "biodegradable" or "compostable" that is not suitable for continuous reuse; if made of or containing plastic and is less than 5 mils thick; is unable to be cleaned and disinfected regularly; and is designed to carry customer purchases from the seller's premises. Paper bags are exempt from this ordinance.

D. "seller" means a person includes persons who are vendors of property, persons furnishing services, and all persons making sales, including goods and services.

Section 2: Section 1 of this Ordinance is of a permanent and general nature and shall be included in the Kodiak Island Borough Code.

Section 3: This Ordinance shall take effect on February 14<sup>th</sup>, 2018.

Adopted by the Assembly of the Kodiak Island Borough

This \_\_\_\_\_ Day of \_\_\_\_\_, 2017

Kodiak Island Borough

Attest:

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Daniel A. Rohrer, Mayor

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Nova M. Javier, MMC, Clerk

VOTES:

Ayes:

Noes:

DRAFT

----- Original message -----

From: Joe Levesque <[joe@levesquelawgroup.com](mailto:joe@levesquelawgroup.com)>  
Date: 05/31/2017 3:25 PM (GMT-09:00)  
To: Michael Powers <[mpowers@kodiakak.us](mailto:mpowers@kodiakak.us)>  
Cc: 'Shelley Garey' <[shelley@levesquelawgroup.com](mailto:shelley@levesquelawgroup.com)>  
Subject: RE: plastic bag ban

Michael:

First, there do not appear to be any prohibitions. So far, it appears that Bethel, Hooper Bay, Cordova and Homer have all passed such laws. The Homer plastic bag ban reveals that an Ordinance was passed by the City Council, the Ordinance was vetoed by the Mayor and then the veto was overridden by the City Council; eventually, the voters overturned the ban at a subsequent election.

A similar law was introduced but not passed in the State of Alaska [HB1043 (2011)]. Based upon information and belief, the Fairbanks North Star Borough passed a tax on plastic bags, but the Ordinance appears to have been later rescinded.

For a Borough to implement such a ban on plastic bags **areawide**, the Borough would need the respective cities within the Borough to transfer the power to the Borough or an **areawide** election can be held approving the transfer of the additional power to the Borough. See: AS 29.35.300 (b) which states:

(b) A second class borough acquires an additional power by transfer of the power by the city or by holding an election on the question. For acquisition of an areawide power, the election shall be held areawide. For acquisition of a nonareawide power, the election shall be held nonareawide.

According to Title 29, a borough is statutorily provided three (3) Mandatory Areawide Powers. The Mandatory Areawide Powers are (1) Education; (2) Assessment and Collection of Taxes; and (3) Land use Regulation. See: Alaska Statutes 29.35. 150 – 180. As a second class Borough, KIB can also by ordinance exercise a number of other powers, but only on a nonareawide basis. See: AS 29.35.210.

The need to acquire a transfer of the power from the city within the Borough or to hold an areawide election, might explain why the Fairbanks North Star Borough originally implemented an areawide tax on plastic bags. Word is that the Matanuska-Susitna Borough is also considering a tax on plastic bags.

Therefore, there do not appear to be any prohibitions. It appears that the Borough can reach its objective to have an areawide ban on plastic bags three (3) different ways:

1. Areawide tax [Statutory Mandatory Areawide Power, AS 29.35.170];
2. Obtain a transfer of the power from the respective cities with the Borough [AS 29.35.310];
3. Hold an areawide election [AS 29.35.330].

I hope this email memo addresses and adequately responds to your questions. I remain available to discuss further.

Thanks,

Joe

**Joseph N. Levesque**

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Anchorage, Alaska 99503  
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**From:** Michael Powers [<mailto:mpowers@kodiakak.us>]  
**Sent:** Thursday, May 25, 2017 3:29 PM  
**To:** Joe Levesque <[joe@levesquelawgroup.com](mailto:joe@levesquelawgroup.com)>  
**Subject:** plastic bag ban

Joe

The Assembly is wanting to consider banning plastic bags. We will need a legal opinion, especially focusing on the impact of it on businesses within the City limits and any prohibitions that may exist.

Thanks!

Michael Powers  
Borough Manager