

Introduced by: Mayor
Date: 08/06/24
Shortened Hearing: 08/06/24
Action: Enacted
Vote: 9 Yes, 0 No, 0 Absent

**KENAI PENINSULA BOROUGH
ORDINANCE 2024-16**

**AN ORDINANCE APPROVING THE USE OF FUNDS FOR THE COSTS OF
DISTRIBUTING PROMOTIONAL INFORMATION ABOUT BALLOT PROPOSITION
NO. 1 SEEKING VOTER APPROVAL FOR THE ISSUANCE OF BONDS TO PAY FOR
THE SOUTH KENAI PENINSULA HOSPITAL AND CAMPUS EXPANSION,
RENOVATION, AND ACQUISITION PROJECTS TO ENSURE COMPLIANCE WITH
LEGAL RESTRICTIONS ON THE USE OF BOROUGH FUNDS AND ASSETS
RELATED TO BALLOT PROPOSITIONS**

WHEREAS, the Kenai Peninsula Borough ("KPB") owns and provides for the management and operation of, the South Peninsula Hospital and campus ("South Peninsula Hospital" or "Hospital") located in KPB's South Kenai Peninsula Hospital Service Area ("Service Area"); and

WHEREAS, KPB has entered into a management and operating agreement with South Peninsula Hospital, Inc., a nonprofit organization organized and existing under the laws of the state of Alaska ("SPHI") for the management and operation of the Hospital located in the Service Area; and

WHEREAS, SPHI's administration intends to use its operating funds to cover the costs of informing the public of the needs and impacts associated with the proposition, and promoting the proposition, seeking voter approval for the issuance of bonds to pay the costs of planning, designing, acquiring property, renovating, constructing, and equipping capital improvements to, and for, the South Peninsula Hospital and campus, all located in the Service Area; and

WHEREAS, AS 15.13.145 prohibits municipalities from influencing the outcome of an election concerning a ballot proposition unless funds have been specifically appropriated for that purpose by municipal ordinance; and

WHEREAS, KPB 4.10.100 prohibits the use of public funds, facilities, equipment or supplies purchased with public funds, and services of public employees in-kind to promote the passage of a ballot proposition; and

WHEREAS, the determination of what explicitly constitutes influencing or supporting passage of a ballot proposition is an undefined, subjective area; and

WHEREAS, SPHI will use hospital operating funds as part of a campaign related to the Hospital bond ballot proposition;

WHEREAS, in addition to SPHI operating funds used for this purpose, the South Peninsula Hospital Foundation, a nonprofit organization established in 2003 and comprised of a community board dedicated to supporting the community healthcare mission of South Peninsula Hospital, donated a \$50,000 match for purposes of expanding available community health care services; and

WHEREAS, per the operating agreement between KPB and SPHI, KPB does not direct SPHI regarding the use of its operating funds nor oversee expenditures of the funds; and

WHEREAS, due to the fact that it is unclear what might constitute public funds for purposes of AS 15.13.145 and KPB 4.10.100 this ordinance provides a one-time approval of the use of operating funds for the purpose of a campaign related to the Hospital bond ballot proposition; and

WHEREAS, since SPHI will use operating cash funds for this purpose, no appropriation of Service Area funds is requested or required; and

WHEREAS, shortened hearing is justified because time is of the essence with the upcoming October 1, 2024 election date and SPHI seeks clarity to immediately move forward with its campaign;

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

SECTION 1. That the Assembly hereby approves of the use of up to \$50,000 in South Peninsula Hospital operating funds for an informational and promotional campaign, which may be used to influence the outcome of the election on October 1, 2024, on the ballot proposition concerning the proposed issuance of Services Area general obligation bonds to pay for the cost of planning, designing, acquiring property, renovating, constructing, and equipping capital improvements to, and for, the South Peninsula Hospital and campus.

SECTION 2. That the Assembly finds KPB 4.10.100 is not applicable because no direct use of Service Area funds will be appropriated for this purpose and no public employees will be creating or distribution materials related to the Hospital's bond ballot proposition campaign.

SECTION 3. This ordinance shall be effective retroactively to July 1, 2024.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 6TH DAY OF AUGUST, 2024.

Brent Johnson

Brent Johnson, Assembly President

ATTEST:

Michele Turner

Michele Turner, CMC, Borough Clerk



Yes: Cooper, Cox, Ecklund, Elam, Hibbert, Ribbens, Tunseth, Tupper, Johnson
No: None
Absent: None