

Introduced by: Wolf
Date: 07/28/15
Shortened Hearing: 08/18/15
Action: Introduced and Set for Shortened
Public Hearing 08/18/15
Date: 08/18/15
Action: Tabled
Vote: 7 Yes, 2 No, 0 Absent
Date: 10/13/15
Action: Stricken per KPB 22.40.070(C)

**KENAI PENINSULA BOROUGH
ORDINANCE 2015-24**

**AN ORDINANCE ESTABLISHING THE CENTRAL PENINSULA ECONOMIC
DEVELOPMENT SERVICE AREA**

WHEREAS, residents from the area of Assembly District One outside of the City of Kenai wish to form an economic development service area in order to allow area residents more ability to provide input into their communities' development and process of government; and

WHEREAS, in the last few years business development has expanded in the proposed service area through relocation of a bulk fuel farm, a newly licensed winery, commercial greenhouse expansion, development of small storage units, recently located oil & gas service contractors and construction supply houses, relocation of a concrete block company, nonprofit special needs service agencies, and numerous other businesses; and

WHEREAS, an economic development service area would enable the local residents to further promote and encourage continued development and expansion of business in the proposed service area; and

WHEREAS, as described in KPB 16.04.030 the mayor submitted a report to the assembly at the _____, 2015 assembly meeting describing the proposed service area boundary, the need for service, the assessed value of the area for fiscal year 2015, the estimated costs of the service area, and the population; and

WHEREAS, a special committee of the assembly conducted a public hearing within the proposed service area on _____ 2015, for the purpose of considering the necessity for the proposed service area with ___ persons testifying in support of the service area and ___ persons opposed; and

WHEREAS, due to the size of the proposed service area, the lack of needs for city government in much of the proposed area, the inability of the cities of Soldotna and Kenai to provide appropriate services to all of the residences of the proposed service area,

these services cannot be provided by an existing service area, by annexation to a city, or by incorporation as a city; and

WHEREAS, a special election on this question would enable the residents and board to begin developing a plan for this service area during the winter months;

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

SECTION 1. Title 16 of the Kenai Peninsula Borough Code of Ordinances is amended by adding a new Chapter 16.65, which shall read as follows:

CHAPTER 16.65. CENTRAL PENINSULA ECONOMIC DEVELOPMENT SERVICE AREA

16.65.010. Boundaries.

There is established a service area within the borough designated as the "Central Peninsula Economic Development Service Area" in that portion of the borough described as all the following referenced to the Seward Meridian, Alaska:
Commencing at the section corner common to Sections 27, 28, 33 and 34, T5N, R11W;

Thence north to the intersection of the section line common to sections 27 and 28, T5N, R11W and the centerline of Unocal Airport Road;

Thence southwesterly along Unocal Airport Road to the intersection with centerline of Kalifornsky Beach Road;

Thence south along the centerline of Kalifornsky Beach Road to the intersection of Kalifornsky Beach Road and Oil Company Haul Road;

Thence west to the mean high water line of Cook Inlet;

Thence northerly along the mean high water line to the intersection of the section line common to Sections 7, 18, T5N, R11W;

Thence easterly to the intersection of the section corner common to sections 7,8,17 and 18, T5N, R11W;

Thence south to the section corner common to sections 17, 18, 19 and 20, T5N, R11W;

Thence east to the section corner common to sections 15, 16, 21 and 22, T5N, R11W;

Thence northerly to the west $\frac{1}{4}$ corner of section 15, T5N, R11W;

Thence east to the thread of the Kenai River;

Thence easterly and northerly along the thread of the Kenai River to the confluence of Beaver Creek;

Thence northeasterly along the thread of Beaver Creek to the range line common to section 36, T6N, R11W and section 31, T6N, R10W;

Thence south along the range line to the south $\frac{1}{16}$ corner of Section 31, T6N, R10W;

Thence east along the south $\frac{1}{16}$ line to the intersection of Sections 31, 32, T6N, R10W;

Thence south along the section line to the section corner common to Sections 5, 6, 7, 8, T5N, R10W;

Thence east to the $\frac{1}{4}$ corner common to Sections 5, 8, T5N, R10W;

Thence south to the center $\frac{1}{4}$ corner of Section 8, T5N, R10W;

Thence west to the center west $\frac{1}{16}$ of Section 8, T5N, R10W;

Thence south to the southwest $\frac{1}{16}$ corner of Section 8, T5N, R10W;

Thence west to the centerline of the Kenai Spur Highway;

Thence southerly along centerline of the Kenai Spur Highway to the centerline of the intersection of Sport Lake Road;

Thence east along Sport Lake Road to the centerline of Moser Road also being a section line common to Sections 20, 21, T5N, R10W;

Thence south to the intersection of the centerline of the Alaska Natural Gas Pipeline right-of-way;

Thence westerly along the pipeline centerline right-of-way to the centerline of Delta Avenue;

Thence westerly along the centerline of Delta Avenue to the centerline of Pero St;

Thence south along centerline of Pero St to the centerline of Kilowatt Avenue;

Thence westerly along the centerline of Kilowatt Avenue to the centerline of the Kenai Spur Highway;

Thence southerly along the centerline of the Kenai Spur Highway to the north 1/16 line of Section 29, T5N, R10W;

Thence west along the north 1/16 line to the intersection of the thread of the Kenai River;

Thence southwesterly along the thread of the Kenai River to the section line common to Sections 25, 36, T5N, R11W;

Thence west along said section line to section corner common to Sections 25, 26, 35, 36, T5N, R11W;

Thence south to the section corner common to Sections 35, 36, T5N, R11W and the township line common to T4N & T5N;

Thence west along said township line to the point of beginning, and all being within the Seward Meridian, Alaska. Excepting therefrom the City of Kenai.

16.65.020. Mill levy.

No mill levy in excess of 0.01 mills shall be levied on behalf of the service area unless the assembly approves an increase during the budgetary process.

16.65.030. Board of directors.

There is established a board of directors for oversight of the operations of the Central Peninsula Economic Development Service Area composed of five members who, except as provided below, shall be elected by the qualified voters of the service area in the manner provided in the borough election code and KPB 16.04.065 as now enacted or may be hereinafter amended. Notwithstanding the provisions of KPB 16.04.060, the first board shall be appointed by the mayor and confirmed by the assembly for terms expiring upon certification of the regular election held in October 2016. Board seats to be filled at the first election of board

members shall be staggered as follows: Seats A and D for one year; seats B and E for two years; and seat C for three years.

16.65.040. Board—Meetings—Quorum.

The board shall meet periodically at a regularly scheduled time and place designated by the board. Special meetings of the board may be called by the chair of the board or by any two members upon reasonable notice thereof published in a newspaper or via radio having general distribution within the service area in compliance with the open meetings act and identifying all matters to be discussed at the special meeting. The notice for all meetings shall set forth the time and place of the meeting and shall be mailed, emailed, faxed or telephoned to each board member. All meetings shall be open to the public as provided by law. Three board members shall constitute a quorum; however, an action shall require the affirmative vote of three board members.

16.65.050. Board—Election of officers.

At the first regular meeting following certification of the election by the assembly, and annually thereafter, the board shall elect by majority vote of the board members, and from the board members, a chairperson and such other officers as the board shall determine to be desirable who shall hold office until successors are elected.

16.65.060. Board—Terms of office.

Each member of the board of directors shall be elected for a term of three years and may serve until a successor has been elected or appointed, qualified and sworn to assume the duties of the office, except that the first elected board shall contain members elected for lesser periods described in KPB 16.65.030. Nothing in this section shall be construed to prohibit a member of the board from resigning or their seat from being vacated as provided in this chapter.

16.65.070. Board—Vacancies—Created when.

Vacancies on the board are created upon declaration of vacancy by the board if a member:

- (a) Fails to qualify or take office within 30 days after his or her election or appointment;
- (b) Is physically absent from the service area for a 90-day period, unless excused by the board;
- (c) Changes his or her residency for a period longer than 60 days to a location outside of the jurisdiction from which the board is elected;
- (d) Resigns and his or her resignation is accepted;

- (e) Is physically or mentally unable to perform the duties of his or her office;
- (f) Misses three consecutive regular meetings unless excused; or
- (g) Is convicted of a felony or of an offense involving a violation of his or her oath of office.

16.65.080. Board—Vacancies—Filling.

Vacancies on the board shall be filled by appointment by the mayor and confirmation by the assembly until the next regular election of the borough at which time a new member shall be elected to fill the unexpired term or for a three-year term if no unexpired term remains. The clerk shall provide at least twenty-one days' advance public notice before filling the vacancy. Public notice may be provided by publication through print or broadcast media, posting at the primary service area office or at the borough administration building, and such other publication as the service area board deems appropriate.

16.65.090. Board—Powers and duties.

Pursuant to the provisions of AS 29.35.460 the board of directors of the service area, subject to KPB 16.04.001, assembly approval and appropriation of funds, shall have the power to supervise the furnishing of economic development services for the service area. The services shall be of a higher or different level than economic development otherwise provided by the Kenai Peninsula Borough. They shall include the promotion of this service area for the location of businesses, planning for and providing a business-friendly environment, safe neighborhoods, and other efforts as recommended by the service area board and approved by the borough assembly.

The board shall promptly provide accurate and complete copies of minutes of all board meetings to the mayor and assembly. The board shall be responsible for developing, implementing, and updating a plan for furnishing economic development services, which shall be subject to assembly approval.

16.65.100. Personnel system—Rules and regulations.

Unless specifically provided otherwise, the borough personnel system and Title 3 of the Kenai Peninsula Borough Code of Ordinances apply to personnel, if any, employed by the service area.

16.65.110. Employee conduct requirements.

Employees of the service area are employees of the borough, and as such, are required at all times to conduct themselves in an exemplary manner befitting the public service in which they are employed.

16. 55.120. Budget and fiscal control.

The formulation of a budget and fiscal control of expenditures of public moneys of the service area are under the supervision and direction of the mayor and the assembly. The finance director of the borough shall provide the board with the rules and regulations governing the appropriation of funds, the budgeting of funds, the authorization of expenditures, and any and all rules and regulations of the borough fiscal policy to which the service area is subject. The board shall arrange for the preparation of a budget and capital program, which shall be submitted to the mayor for approval. The budget and capital expenditure proposals shall be subject to the procedures for adopting the borough budget and capital expenditures program and its consideration by the assembly. Such public hearings as are necessary shall be a part of the budgetary procedures before the board and the assembly.

16. 55.130. Officers—Appointment, qualifications, and removal.

The mayor, after considering the recommendation of the board, may appoint such administrative officers as the mayor deems necessary. These officers shall be subject to removal by the mayor as provided for administrative personnel in KPB 3.04.070. To the extent feasible, the mayor shall consider the recommendation of the service area board prior to such removal. The administrative officers shall administer policy as set by the board with the concurrence of the mayor.

16.65.140. Policies—Formulation and authority—Approval required.

The board, or its designee, shall formulate policies to govern the operation of the service area departments, and shall be responsible to the mayor for the personnel, morale, and general efficiency of the department that are not inconsistent with general borough policies. Prior to implementation, such policies shall be approved by the assembly by resolution.

16.65.150. Procedure—Conduct of affairs—Meetings.

The board shall adopt bylaws or regulations governing the conduct of its affairs so long as such bylaws are procedural in nature and do not conflict with the substantive rules and regulations governing the board in its delegated powers. The board shall adopt rules of procedure for the conduct of its meetings so long as such rules of procedure are not in conflict with bylaws and regulations governing the board.

16.65.160. Purchasing—Agent.

A. The purchasing agent for the service area is the borough purchasing and contracting director. All purchases of supplies, materials, equipment, and

contractual services shall be made in accordance with the rules and regulations adopted by the assembly.

B. All contracts for capital improvements and maintenance performed in connection with the service area shall be bid and administered by the borough capital projects department in accordance with the department's normal procedure for letting of contracts.

16.65.170. Accounts—Vouchers—Accounting.

All accounting functions for the service area shall be under the supervision of the borough finance director who shall provide rules, regulations, and procedures governing the issuance and payment of vouchers, the issuance and payment of checks, the use of the central treasury of the borough, and the manner in which all bonds, contracts, leases or other obligations requiring the payment of funds from the appropriations in the service area budget are to be processed and administered.

16.65.180. Fiscal procedures.

The service area shall abide by the fiscal policies and procedures applicable to the borough general government budget.

SECTION 2. That notwithstanding KP.B 16.04.040 the public hearing held within the proposed service area boundaries may be held after this ordinance is introduced.

SECTION 3. That the following proposition shall be placed before the voters of the Central Peninsula Economic Development Service Area at a special election to be held Tuesday, November 3, 2015:

PROPOSITION NO. _____

“Do you approve the exercise of economic development powers by the Kenai Peninsula Borough to provide economic development services within the service area established by Kenai Peninsula Borough Ordinance 2015-24? Such services would not include: (1) tourism promotion; (2) the rural development business loan program; and (3) support of major economic development projects as provided for in KP.B Chapter 19.30 as these are already provided by the borough outside of the cities.

YES _____

A “Yes” vote authorizes the borough to provide economic development services in the proposed economic development service area of the borough.

NO _____

A “No” vote does not authorize the borough to provide the proposed economic development services in the proposed economic development service area of the borough.

SECTION 4. That Sections 2 and 3 of this ordinance take effect immediately upon enactment of this ordinance. Section 1 shall take effect upon approval of the proposition in Section 3 by the majority of voters in the service area voting on the proposition at a special borough election to be held November 3, 2015, and upon the date the borough assembly certifies the election.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS *
DAY OF * 2015.**

Dale Bagley, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

08/18/15 Vote on Motion to Table:

Yes: Haggerty, Gilman, McClure, Ogle, Welles, Wolf, Bagley

No: Cooper, Johnson

Absent: None