

Introduced by: Mayor, Haggerty, Smith
Date: 07/05/11
Hearing: 08/02/11
Action: Enacted as Amended
Vote: 9 Yes, 0 No, 0 Absent

**KENAI PENINSULA BOROUGH
ORDINANCE 2011-28**

**AN ORDINANCE ESTABLISHING THE
SELDOVIA RECREATIONAL SERVICE AREA**

WHEREAS, members of the Seldovia community have been working to find a way to ensure the continued use of the building recently vacated by the Seldovia Boys and Girls Club which is located at the southern portion of the Seldovia school property and is owned by the Kenai Peninsula Borough; and

WHEREAS, the community would like to keep the building available and operational for community recreation purposes; and

WHEREAS, more than 15 percent of the eligible voters who voted in the last regular borough election and within the area comprising the proposed Seldovia recreational service area have by petition requested the establishment of a Seldovia recreational service area in the area described by the petition which includes the Seldovia voting precinct; and

WHEREAS, as required by KPB 16.04.030 the mayor submitted a report to the assembly at the June 21, 2011, assembly meeting describing the proposed Seldovia service area boundary, the need for service, the assessed value of the area for fiscal year 2011, 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 recreational service area on July 7, 2011, for the purpose of considering the necessity for the proposed service area with twenty (20) persons testifying in support of the service area and zero (0) persons opposed; and

WHEREAS, due to the size and population of the area, the lack of needs for city government in much of the proposed area and certain character, resource, population, boundary, and standards for annexation to cities as described in 3 AAC 110.090 - 140 such services cannot be provided by an existing service area, by annexation to a city, or by incorporation as a city; and

WHEREAS, pursuant to AS 29.35.450, because the city of Seldovia is included in the proposed service area, either the city council must either agree by ordinance to be included in the service area, or the service area must be approved by both a majority of the voters residing in the city and a majority of the remaining voters residing in the proposed service area;

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 16.55 which shall read as follows:

CHAPTER 16.55. SELDOVIA RECREATIONAL SERVICE AREA

16.55.010. Boundaries.

There is established a service area within the borough designated as the “Seldovia Recreational Service Area” in that portion of the borough described as all the following referenced to the Seward Meridian, Alaska:

A portion of the Kenai Peninsula Borough described as follows: Beginning at the mouth of the Seldovia River in Kachemak Bay; then southerly along the thread of Seldovia River to the northern shore of Seldovia Lake; then northeast along a non-visible point-to-point line extending to the headwaters of Barabara Creek; then northerly along the thread of Barabara Creek to its intersection with Barabara Creek tributary; then southeasterly along the thread of Barabara Creek tributary to its headwaters; then northeasterly along a non-visible point-to-point line extending to Gunsight Mountain; then southeasterly along the ridgeline of Gunsight Mountain to its end; then southeasterly along a non-visible point-to-point line extending to the headwaters of Windy River; then northeasterly along the thread of Windy River to its intersection with Jakolof Creek; then northwesterly along the thread of Jakolof Creek to Jakolof Bay; then westerly along the southern shoreline of Kachemak Bay to the mouth of Seldovia River; the point of beginning. (see attached map)

16.55.020. Mill levy.

No mill levy in excess of 1.0 mills shall be levied on behalf of the service area unless an increase is approved by the assembly during the budgetary process.

16.55.030. Board of directors.

There is established a board of directors for oversight of the operations of the Seldovia Recreational 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 2012. 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.

16.55.040. 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 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.

16.55.050. 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.

16.55.060. Board—Terms of office.

Each member of the board of directors shall be elected for a term of three years and shall serve thereafter until his or her successor has been elected, 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 16.55.030.

16.55.070. 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.

16.55.080. Board—Vacancies—Filling.

Vacancies on the board shall be filled by majority vote of the remaining board 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.

16.55.090. Board—Powers and duties.

Pursuant to the provisions of AS 29.35.450 the board of directors of the service area, subject to KPB 16.04.001, and assembly approval and appropriation of funds, shall have the power to supervise the furnishing of recreational services within the service area that are based out of, and utilize the Seldovia Community Center, now known as the Sea Otter Community Center, presently located on Tract 3 B, Fleming Giles Estates No. 2 Subdivision according to Plat No. 96-1, Seldovia Recording District, Third Judicial District, State of Alaska, and other facilities as may be authorized by the borough assembly, and additional recreational services as are recommended by the service area board and established by the assembly through the budget process. Services to be provided may include but are not limited to senior citizen and youth programs, musical instruction and practice, accommodation of visiting schools during “Sea Week” and other Seldovia field trips, facility rental for organizations and individuals for meetings and celebrations, adult education, high speed internet access, community gatherings such as potlucks and dinners, karate instruction, arts and crafts instruction and facilitation, nature education and outdoor activities. The services shall be different from those provided by the City of Seldovia. 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 recreational services which shall be subject to assembly approval.

16.55.100. 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 Seldovia Recreational Service Area.

16.55.110. Employee conduct requirements.

Employees of the Seldovia Recreational 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 Seldovia Recreational 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.

16.55.140. 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. Prior to implementation, such policies shall be approved by the assembly by resolution.

16.55.150. 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.

16.55.160. Purchasing—Agent.

- A. The purchasing agent for the service area is the borough purchasing and contracts manager. 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.

16.55.170. 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.

16.55.180. Fiscal procedures.

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

SECTION 2. That notwithstanding KPB 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 Seldovia Recreational Service Area at the regular election to be held October 4, 2011:

PROPOSITION NO. _____

“Shall the Kenai Peninsula borough be authorized to provide recreational services within the Seldovia Recreational Service Area established by Kenai Peninsula Borough Ordinance 2011-28 that are based out of and utilize the Seldovia Community Center, now known as the Sea Otter Community Center, presently located adjacent to Susan B. English School and other facilities as may be authorized by the borough assembly, and additional recreational services as are recommended by the service area board and established by the assembly through the budget process? Services to be provided may include but are not limited to senior citizen and youth programs, musical instruction and practice, accommodation of visiting schools during “Sea Week” and other Seldovia field trips, facility rental for organizations and individuals for meetings and celebrations, adult education, high speed internet access, community gatherings such as

potlucks and dinners, karate instruction, arts and crafts instruction and facilitation, nature education and outdoor activities. The service area shall be different from those provided by the City of Seldovia.”

YES _____ NO _____

SECTION 4. That Section 3 of this ordinance takes 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 the borough election to be held October 4, 2011, and upon the date the election is certified by the borough assembly or the date the U.S. Department of Justice issues its nonobjection to preclearance, whichever is later. If the U.S. Department of Justice does not issue a nonobjection to preclearance, the effective date shall be 60 days from the date of receipt of the ballot proposition for preclearance by the U.S. Department of Justice or the date of the certification of the election results, whichever is later. If an objection is imposed by the U.S. Department of Justice, the ordinance shall not be effective until the objection is resolved.

SECTION 5. That this ordinance shall also only take effect after the city of Seldovia either agrees by ordinance to be included in the service area or approval is granted by a majority of the voters residing in the city and also by a majority of the remaining voters residing in the service area as required by AS 29.35.450(a).

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 2ND DAY OF AUGUST, 2011.

Gary Knopp, Assembly President

ATTEST:

Johni Blankenship, Borough Clerk

Yes: Haggerty, Johnson, McClure, Murphy, Pierce, Smalley, Smith, Tauriainen, Knopp
No: None
Absent: None