

Kenai Peninsula Borough Assembly

MEMORANDUM

TO: Brent Johnson, Assembly President
Members, Kenai Peninsula Borough Assembly

FROM: Tyson Cox, Assembly Vice President (TC) for: TC

DATE: June 6, 2023

SUBJECT: **LAYDOWN** three suggested options to allow for an equitable application process for all Borough residents within each city or district to Ordinance 2023-11, Amending Borough Code, KPB 2.40.015 and KPB 2.40.030, to Reduce the Number of Seats on the Planning Commission and Provide for an Orderly Process for the Seat Reduction (Elam)

In February of 2022 we, the Borough Assembly, passed a resolution asking for the Alaska State Legislature to remove a portion of code from Alaska Statute 29.40.020(a) because we believed the language "effectively removes local control and flexibility of the assembly to determine planning commission membership in a manner that best meets the needs of the borough".

Later that legislative session the section we asked to have removed from Title 29 was voted on and removed from state statute. The specific statement removed was:

"Commission membership shall be apportioned so that the number of members from home rule and first class cities reflects the proportion of borough population residing in home rule and first class cities located in the borough."

As intended, this change has effectively removed any requirement for the planning commission to reflect a membership similar to that of the actual population of home rule/first class cities and rural areas opening up the borough to be more flexible with the planning commission seating arrangement. This was a successful endeavor utilizing great communication between our local state legislators and our Borough Assembly.

As great an accomplishment as this may be, we did not ask for enough code to be removed. With Alaska Statute 29.40.020(a) as it currently reads and the adoption of Ordinance 2023-11 we will be trading individual equity in the application process for more borough control and flexibility. To accomplish both, equity for all applicants and more flexibility with regard to the planning commission seat assignments, the following phrase would also need to be removed from Alaska Statute 29.40.020(a):

"except that a member from a home rule or first class city shall be selected from a list of recommendations submitted by the council"

Below is one example of how the current state code (Title 29) and Ordinance 2023-11 would unequally affect KPB residents when applying for an open planning commission seat:

KPB City Resident - A Home Rule/First Class City Resident in KPB District 4

- Four qualified City of Soldotna residents apply to become the KPB District 4 planning commissioner.
- Each is required to submit an application to the City of Soldotna for review by the City Council.
- The City Council reviews the applications and decides to forward two to the Borough Mayor.
- The two qualified, but not selected, City of Soldotna residents cannot apply directly to the Borough Mayor per Title 29. These city residents could not be considered for the District 4 Planning Commissioner Seat.

KPB Non-City Resident: Mackey Lake/Sport Lake Area Residents in KPB District 4

- Two residents of Mackey Lake area apply directly to the Borough Mayor to be considered for the District 4 Planning Commissioner Seat.
- Two residents of the Sport Lake area apply directly to the Borough Mayor to be considered for the District 4 Planning Commissioner Seat.

Conclusion: A resident of a city, in this case Soldotna, would be required to go through an extra processing step before being considered an equal candidate for the Borough Mayor to consider when compared with those living outside of a home rule or first class city creating an easier process for the unincorporated area residents.

With the guidance of the Borough Legal Department, several solutions to help create a more equitable application process for all Borough residents have been included in the Ordinance 2023-11 packet. These ideas are not all-inclusive and additional suggestions are encouraged. Please review the following:

- Table Ordinance 2023-11 and pass a resolution asking for additional text in Alaska Statute 29.40.020(a) be removed. Re-evaluate Ordinance 2023-11 once the phrase described above is removed from Title 29.
- Amend Ordinance 2023-11 to include 2 rotating city seats and 9 district seats creating a more equitable application process for the districts with city and non-city residents. See **LAYDOWN COX AMENDMENT #1 and #2**.
- A Substitute Ordinance 2023-11 to include 4 city seats and 5 area seats creating a more equitable application process all residents applying for a particular seat. See **LAYDOWN ORDINANCE 2023-11 (SUBSTITUTE)**.

Your consideration is appreciated.