

Introduced by: Dunne, Hibbert
Date: 09/03/19
Hearing: 10/08/19
Action: Postponed as Amended
to 11/05/19
Vote: 9 Yes, 0 No, 0 Absent
Date: 11/05/19
Action: Failed to Enact as Amended
Vote: 1 Yes, 8 No, 0 Absent

**KENAI PENINSULA BOROUGH
ORDINANCE 2019-23**

**AN ORDINANCE AMENDING KPB TITLES 2 AND 16 REGARDING SERVICE
AREAS TO PROVIDE THAT CERTAIN KENAI PENINSULA BOROUGH SERVICE
AREA BOARDS ARE APPOINTED INSTEAD OF ELECTED**

WHEREAS, the Kenai Peninsula Borough (“borough”) currently has 12 service area boards of which seven are elected and five are appointed; and

WHEREAS, the borough is one of the few boroughs, if not the only, in the State of Alaska with elected service area boards; and

WHEREAS, historically there have been numerous vacant seats for service area boards as well as seats where only one person has filed to run; and

WHEREAS, in 2017 three service area boards successfully transitioned from elected boards to appointed boards; and

WHEREAS, the borough assembly established the Election Stakeholder Group (“ESG”) through the direction and adoption of Resolution 2019-006, which included community members and members from many local governments in the borough, researched ways to increase voter participation by developing sustainable election processes that maximize accessibility and inclusivity; and

WHEREAS, after holding many public meetings throughout 2019 the ESG issued a final report with six specific recommendations regarding potential changes to borough code and election processes which are intended to achieve guiding principles initially adopted by the ESG; and

WHEREAS, the ESG’s recommendation #5 is that the borough provides for appointed rather than elected service area boards; and

WHEREAS, appointed boards have proven to increase public interest in service on a board as potential board members would not have to run or otherwise comply with the election process requirements; and

WHEREAS, changing from elected service area boards to appointed boards will significantly reduce the time and expense involved in borough elections; and

WHEREAS, the clerk's office has indicated that thousands of dollars would be saved by eliminating these seats from the election process as this would reduce printing costs and time required of election officials and the clerk's office in reviewing and verifying election ballots; and

WHEREAS, providing for an appointed board may alleviate voter confusion by reducing the content of the voter pamphlet and the number of ballots as many service areas bifurcate precincts requiring more than one ballot for each precinct; and

WHEREAS, the appointment process will remain a public process in which the openings will be advertised, the mayor will appoint interested applicants and the assembly would confirm the appointment to service area boards; and

WHEREAS, appointed boards have functioned well for the other five service areas in the borough and throughout other service areas in the state; and

WHEREAS, at its September 10, 2019 regular meeting the Bear Creek Fire Service Area board recommended enactment by majority consent; and

WHEREAS, at its September 12, 2019 regular meeting the South Kenai Peninsula Hospital Service Area Board opposed enactment by unanimous consent; and

WHEREAS, at its September 19, 2019 regular meeting of the Joint Operating board for Central Emergency Service Area and Central Peninsula Emergency Medical Service Area recommended enactment by unanimous consent; and

WHEREAS, at its October 7, 2019 regular meeting the Seward Bear Creek Flood board opposed enactment by unanimous consent; and

WHEREAS, at its October 9, 2019 regular meeting the Nikiski Fire Service Area board opposed enactment by unanimous consent; and

WHEREAS, at its October 23, 2019 regular meeting the Nikiski Senior Service Area board opposed enactment by unanimous consent; and

WHEREAS, at its October 28, 2019 regular meeting the North Peninsula Recreation Service Area board recommended opposed enactment by unanimous consent;

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

SECTION 1. KPB 2.58.010(C) is amended as follows:

2.58.010. Definitions.

The following words shall have the following meanings:

- A. "Contract" or "contractual relationship" means any agreement or business relationship between the borough, division of the borough, or service area, whether such contract or agreement is expressed or implied. Sales of retail items or establishment as an approved source of supply of materials or goods are also included in the meaning of contract or contractual relationships.
- B. "Municipal officer" or "employee" means an officer or employee of the borough, whether paid or unpaid, and includes any members of any boards or commissions of the borough other than service area boards.
- C. 1. "Service area board members" means those persons [, WHETHER ELECTED OR APPOINTED,] who serve upon boards of the various service areas as may from time to time be established within the borough.
2. "Service area officers or employees" means an officer or employee of the service area involved in the contractual relationship, but does not include officers or employees of service areas other than the one with which a contractual relationship is sought or entered.

...

SECTION 2. KPB 16.20.070 is amended as follows:

16.20.070. Board—Vacancies—Created when.

Vacancies on the board are created under the following conditions and upon declaration of vacancy by the board [IF A MEMBER]:

- A. If no applicant files for appointment to a seat which is to be filled or if a successful applicant [F] fails to qualify or take office within 30 days after his or her [ELECTION OR] appointment;
- B. If a member [I] is physically absent from the service area for a 90-day period, unless excused by the board;
- C. If a member [R] resigns and his resignation is accepted;
- D. If a member [I] is physically or mentally unable to perform the duties of his office;

- E. If a member [I]is removed from office;
- F. If a member [M]misses [3] three consecutive regular meetings unless excused;
- G. If a member [I]is convicted of a felony or of an offense involving a violation of his oath of office.

SECTION 3. KPB 16.24.020, 16.24.040, 16.24.050 and 16.24.060(A) are amended as follows:

16.24.020. Board—Established— Appointment [NOMINATION AND ELECTION].

There is established a board of directors for the South Kenai Peninsula hospital service area composed of [9] nine members who shall be appointed by the borough mayor and confirmed by the borough assembly. [NOMINATED AND ELECTED BY THE QUALIFIED VOTERS OF THE SERVICE AREA AS PROVIDED IN SECTIONS 4.08.020(D) AND 16.04.065 OF THIS CODE.]

16.24.040. Board—Election of officers.

At the first regular meeting following certification of the regular borough election by the assembly, and annually thereafter, the board shall elect by majority vote of the members and from the members a chair[MAN] who shall hold office until a successor is elected.

16.24.050. Board—Qualifications and terms of office.

Members shall be qualified voters of the borough who are residents of the service area. Each member of the board of directors shall be [ELECTED] appointed for a term of three years and may serve thereafter until a successor has been [ELECTED OR] appointed, qualified and sworn to assume the duties of office, except that the first board shall contain members elected to Seats G, H, and I for initial terms of 1 year and to Seats D, E, and F for initial terms of 2 years in order to provide for staggered terms. 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.

16.24.060. Board—Vacancies—Created when.

Vacancies on the board are created under the following conditions and upon declaration of vacancy by the board:

- A. If no [CANDIDATE] applicant files for [ELECTION] appointment to a seat which is to be filled [AT SAID ELECTION] or if a successful [CANDIDATE] applicant fails to qualify or take office within 30 days after his [ELECTION OR] appointment;

...

SECTION 4. KPB 16.28.020, 16.28.040, 16.28.050 and 16.28.060 are amended as follows:

16.28.020. Board—Established—Appointment [NOMINATION AND ELECTION] of members.

There is established a board of directors for the Bear Creek Fire Service Area composed of [5] five members who shall be residents of the service area and [ELECTED BY THE QUALIFIED VOTERS OF THE SERVICE AREA] appointed by the borough mayor and confirmed by the borough assembly as provided in Sections 4.20.010(C) and 16.04.065 of this code. Up to one board member may also serve as a volunteer firefighter and/or emergency medical service provider for the service area without compensation except that which is ordinarily provided to such volunteers.

16.28.040. Board—Election of officers.

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

16.28.050. Board—Terms of office.

A member of the board of directors shall be appointed [ELECTED] for a term of [3] three years and shall serve thereafter until a successor has been [ELECTED OR] appointed, qualified, and sworn to assume the duties of the office[, EXCEPT THAT THE FIRST BOARD SHALL CONTAIN MEMBERS ELECTED FOR LESSER PERIODS AS DESIGNATED IN THE DOCUMENTS SETTING UP THE ELECTION TO PROVIDE FOR STAGGERED TERMS]. Applicants shall file for appointment to Seats A through E for staggered terms of three years. Board members shall be appointed based on their familiarity with the functions of the service area and financial and budgetary management capabilities. 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.

16.28.060. Board—Vacancies—Created when.

Vacancies on the board are created under the following conditions and upon declaration of vacancy by the board [IF A MEMBER]:

- A. If no applicant files for appointment to a seat which is to be filled or if a successful applicant [F]fails to qualify or take office within 30 days after his or her [ELECTION OR] appointment;

- B. If a member [I]is physically absent from the service area for a 90 day period, unless excused by the board;
- C. If a member [R]resigns and his resignation is accepted;
- D. If a member [I]is physically or mentally unable to perform the duties of his office;
- E. If a member [I]is removed from office;
- F. If a member [M]misses [3] three consecutive regular meetings unless excused; or
- G. If a member [I]is convicted of a felony or of an offense involving a violation of his oath of office.

SECTION 5. KPB 16.30.030, 16.30.050, 16.30.060 and 16.30.070 are amended as follows:

16.30.030. Joint operations board.

There is established a joint operations board of directors for oversight of the joint operations of the Central Emergency Service Area with the Central Peninsula Emergency Medical Service Area, to be composed of five members who shall be [NOMINATED AND ELECTED BY THE QUALIFIED VOTERS RESIDING WITHIN THE TWO SERVICE AREAS AS PROVIDED IN SECS. 4.10.020(C) AND 16.04.065 OF THIS CODE] appointed by the borough mayor and confirmed by the borough assembly.

16.30.050. Board—Election of officers.

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

16.30.060. Board—Terms of office.

A member of the board of directors shall be [ELECTED] appointed for a term of three years and may serve thereafter until a successor has been [ELECTED OR] appointed, qualified and sworn to assume the duties of the office [, EXCEPT THAT THE FIRST BOARD SHALL CONTAIN MEMBERS ELECTED FOR LESSER PERIODS AS DESIGNATED IN THE DOCUMENTS SETTING UP THE ELECTION TO PROVIDE FOR STAGGERED TERMS]. Applicants shall file for appointment to Seats A through E for staggered terms of three years. Board members shall be appointed based on their familiarity with the functions of the service area and financial and budgetary management capabilities.

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.

16.30.070. Board—Vacancies—Created when.

Vacancies on the board are created under the following conditions and upon declaration of vacancy by the board [IF A MEMBERS]:

- A. If no applicant files for appointment to a seat which is to be filled or if a successful applicant [F] fails to qualify or take office within 30 days after his or her [ELECTION OR] appointment;
- B. If a member [I] is physically absent from the service area for a 90-day period, unless excused by the board;
- C. If a member [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] appointed;
- D. If a member [R] resigns and his or her resignation is accepted;
- E. If a member [I] is physically or mentally unable to perform the duties of his or her office;
- F. If a member [M] misses three consecutive regular meetings unless excused; or
- G. If a member [I] is convicted of a felony or of an offense involving a violation of his or her oath of office.

SECTION 6. KPB 16.40.030 is amended as follows:

16.40.030. Joint operations board.

There is established a joint operations board of directors for oversight of the joint operations of the Central Emergency Service Area with the Central Peninsula Emergency Medical Service, to be composed of five members who shall be [NOMINATED AND ELECTED BY THE QUALIFIED VOTERS OF THE TWO SERVICE AREAS AS PROVIDED IN SECS. 4.10.020(C) AND 16.04.065 OF THIS CODE] appointed by the borough mayor and confirmed by the borough assembly. All procedures and authorities of the joint operations board are set out through the express terms and conditions of KPB Chapter 16.30.

SECTION 7. KPB 16.50.030, 16.50.050, 16.50.060 and 16.50.070 are amended as follows:

16.50.030. Board of directors.

There is established a board of directors for oversight of the operations of the Seward-Bear Creek Flood Service Area composed of seven members who 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] appointed by the borough mayor and confirmed by the borough assembly. 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 seats C, F, and G for three years.

16.50.050. Board—Election of officers.

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

16.50.060. Board—Terms of office.

Each member of the board of directors shall be [ELECTED] appointed for a term of three years and may serve thereafter until a successor has been [ELECTED OR] appointed, qualified and sworn to assume the duties of the office [, EXCEPT THAT THE FIRST BOARD SHALL CONTAIN MEMBERS ELECTED FOR LESSER PERIODS AS DESIGNATED IN THE DOCUMENTS SETTING UP THE ELECTION TO PROVIDE FOR STAGGERED TERMS AND AS PROVIDED IN KPB 16.50.030]. Applicants shall file for appointment to Seats A through G for staggered terms of three years. Board members shall be appointed based on their familiarity with the functions of the service area and financial and budgetary management capabilities. 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

16.50.070. Board—Vacancies—Created when.

Vacancies on the board are created under the following conditions and upon declaration of vacancy by the board [IF A MEMBER]:

- A. If no applicant files for appointment to a seat which is to be filled or if a successful applicant [F]fails to qualify or take office within 30 days after his or her [ELECTION OR] appointment;
- B. If a member [I]is physically absent from the service area for a 90-day period, unless excused by the board;
- C. If a member [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] appointed;

- D. If a member [R]resigns and his or her resignation is accepted;
- E. If a member [I]is physically or mentally unable to perform the duties of his or her office;
- F. If a member [M]misses three consecutive regular meetings unless excused; or
- G. If a member [I]is convicted of a felony or of an offense involving a violation of his or her oath of office.
- H. If a member [I]is removed from office pursuant to a recall election.

SECTION 8. KPB 16.55.070 is amended as follows:

16.55.070. Board—Vacancies—Created when.

Vacancies on the board are created under the following conditions and upon declaration of vacancy by the board [IF A MEMBER]:

- A. If no applicant files for appointment to a seat which is to be filled or if a successful applicant [F]fails to qualify or take office within 30 days after his or her [ELECTION OR] appointment;
- B. If a member [I]is physically absent from the service area for a 90-day period, unless excused by the board;
- C. If a member [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] appointed;
- D. If a member [R]resigns and his or her resignation is accepted;
- E. If a member [I]is physically or mentally unable to perform the duties of his or her office;
- F. If a member [M]misses three consecutive regular meetings unless excused; or
- G. If a member [I]is convicted of a felony or of an offense involving a violation of his or her oath of office.
- H. If a member [I]is removed from office pursuant to a recall election.

SECTION 9. That this ordinance takes effect immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 5TH DAY OF NOVEMBER, 2019.

Kelly Cooper, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

10/08/19 Vote on motion to postpone as amended to 11/05/19:

Yes: Bagley, Blakeley, Carpenter, Cooper, Dunne, Fischer, Hibbert, Smalley, Ogle

No: None

Absent: None

11/05/19 Vote on motion to enacted as amended:

Yes: Johnson

No: Bjorkman, Blakeley, Carpenter, Cox, Dunne, Hibbert, Smalley, Cooper

Absent: None