

Introduced by: Skogstad
Date: April 2, 1991
Hearing: May 7, 1991
Vote: ENACTED
Action: UNANIMOUS
Shortened Hearing: April 16, 1991

KENAI PENINSULA BOROUGH

ORDINANCE 91-17

AMENDING KPB 7.10.020 TO ALLOW TRANSFER OF LIQUOR LICENSES IN FORECLOSURE PROCEEDINGS WITHOUT PROTEST

WHEREAS, KPB 7.10.020 mandates a protest of all proposed transfers of liquor licenses if taxes are owed by the current license holder; and

WHEREAS, the ordinance allows arrangements for payment out of the proceeds of a sale but does not allow latitude in making arrangements for payment after a transfer to a foreclosing holder of a security interest; and

WHEREAS, some provision should be made for transfers without protest where the transfer is to the person holding a security interest in the license so long as arrangements are made for satisfying the delinquent tax obligation;

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

Section 1. That KPB 7.10.020(C) is amended to read:

7.10.020(C). Notwithstanding the provisions of this section, the borough is not required to file a protest if the transferor and/or applicant have made satisfactory arrangements with the borough for the discharge of a tax obligation from the proceeds of the transfer or by payment from the person to whom the license is to be transferred. Further, if the proposed transferee holds a security interest in the license or licensed premises and seeks the transfer as part of an action foreclosing or protecting that security interest the borough will not protest a transfer to the holder of the security interest so long as satisfactory arrangements have been made by the transferee to pay the delinquent taxes in accordance with this chapter and other provisions of the borough code and no other provisions of this chapter would cause or allow a protest to be made.

Section 2. That this ordinance shall take effect immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH ON THIS
16th DAY OF April, 1991.

ATTEST:


James W. Skogstad, Assembly President


Borough Clerk

Chapter 16.41

KENAI PENINSULA BOROUGH
ROAD SERVICE AREA

Sections:

- 16.41.010 Established--Boundaries.
- 16.41.020 Board--Established--Membership.
- 16.41.030 Board--Meetings--Quorum.
- 16.41.040 Board--Election of officers.
- 16.41.050 Board--Terms of office.
- 16.41.060 Board--Vacancies.
- 16.41.070 Board--Powers and duties.
- 16.41.080 Employee conduct requirements.
- 16.41.090 Budget and fiscal control.
- 16.41.100 Director--Appointment, qualifications, and removal.
- 16.41.110 Director--Accountability.
- 16.41.120 Rules and regulations--Formulation and authority--Approval required.
- 16.41.130 Director--Reports required--Monthly.
- 16.41.140 Service board--Reports required--Annual.
- 16.41.150 Procedure--Conduct of affairs--Meetings.
- 16.41.160 Purchasing--Agent.
- 16.41.170 Budget and capital program.
- 16.41.180 Accounts--Vouchers--Accounting.

16.41.010 Established--Boundaries. A service area is established within the borough designated as the "Kenai Peninsula Borough Road Service Area" including that portion of the borough described as follows:

Being all land within the boundaries of the Kenai Peninsula Borough, except for all of the home-rule and first class cities, and except the area described as:

Commencing at the southeast corner of T8S R11W, S.M., Alaska, on the Doroshin Glacier; thence easterly along the township line between T8S and T9S to a line between the southeast corner of T7S R10W and Gore Point; thence northerly along the said line to the southeast corner of T7S R10W; thence northeasterly along a line between the southeast corner of T7S R10W to the southeast corner of Section 31, T1S R4W to the southerly boundary of the Kenai National Moose Range within T5S R7W; thence northwesterly along the southerly boundary of the Kenai National Moose

Range to the thread of the Fox River; thence southwesterly along the thread of the Fox River to Kachemak Bay; thence southwesterly through Kachemak Bay to the southeasternmost point of the Homer Spit; thence south to the south shore of Kachemak Bay; thence northeasterly along the south shore of Kachemak Bay to the Doroshin River; thence southeasterly along the thread of the Doroshin River through the Doroshin Glacier to the southeast corner of T8S R11W, the true point of beginning.

16.41.020 Board--Established--Membership. There is established a board of directors for the Kenai Peninsula Borough Road Service Area composed of seven members who shall be appointed by the mayor and confirmed by the assembly. Board members shall be qualified voters of the borough and residents of the Kenai Peninsula Borough Road Service Area. The following criteria shall be considered when appointing board members: familiarity with borough roads; financial and budgetary management capability; and expertise in road maintenance and construction. The board shall consist of at least one member from each of the northern, central, eastern and southern regions of the borough and three members at large.

16.41.030 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 chairman of the board or by any three members upon one day's notice thereof published in a newspaper or via radio having general distribution within the service area. The notice shall set forth the time and place of the meeting, shall state the specific matter or matters to be included on the agenda, and shall be mailed or telephoned to each board member. The attendance of a board member at a meeting constitutes a waiver of notice of the meeting. All meetings are open to the public as provided in AS 29.20.020 and AS 44.62.310, and in accordance with the policies set forth in AS 44.62.310 and AS 44.62.312. Four board members shall constitute a quorum; however, any action shall require the affirmative vote of four or more board members.

16.41.040 Board--Election of officers. At their organizational meeting, the board shall elect officers to hold office until the board's first meeting in October 1992, or until successors are elected. Thereafter, election of officers shall be held annually at the

board's first meeting in October. The board shall elect by majority vote of the board members and from the board members a chairman and such other officers as the board shall determine to be desirable who shall hold office until successors are elected.

16.41.050 Board--Terms of office. A member of the board of directors shall be appointed for a term of 3 years and shall serve thereafter until his or her successor has been appointed and sworn to assume the duties of the office, except that the first board shall contain members for lesser periods to provide for staggered terms. The terms of office for the initial board shall be determined by drawing lots at their organizational meeting, with two members to serve one year, two members to serve two years, and three members to serve 3 years. The "one-year" terms shall end September 30, 1992.

16.41.060 Board--Vacancies. A. Vacancies on the board are created upon declaration of vacancy by the board if a member:

1. Fails to take office within 30 days after his or her appointment;
2. Is physically absent from the service area for a 90-day period, unless excused by the board;
3. Resigns and the resignation is accepted;
4. Is physically or mentally unable to perform the duties of his or her office;
5. Is removed from office;
6. Misses three consecutive regular meetings unless excused;
7. Is convicted of a felony or of an offense involving a violation of their oath of office.
8. Changes his or her residency to a location outside of the service area for a period longer than 60 days.

B. Vacancies on the board shall be filled as prescribed in Section 16.41.050 above. The appointment shall be to fill the unexpired term or for a 3-year term if no unexpired term remains.

16.41.070 Board--Powers and duties. Pursuant to the provisions of AS 29.35.490, the board of directors of the service area, subject to assembly approval and appropriation of funds, shall have the power to provide for improvement and maintenance of roads within the service area, and shall promptly furnish accurate and complete copies of minutes of all board meetings to the mayor and the assembly.

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

16.41.090 Budget and fiscal control. The formulation of a budget and fiscal control of expenditures of public moneys of the road maintenance service area are under the supervision and direction of the mayor and the assembly. The finance director of the borough shall provide the service area 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.

16.41.100 Director--Appointment, qualifications, and removal. The director and such other administrative officers as may be provided for shall be appointed by the mayor after recommendation from the service area board. The tenure of these offices shall be based upon good and faithful performance of the required duties assigned to these positions, subject to removal by the mayor on or upon the recommendation of the service area board as provided for partially exempt personnel in Title 3 of this code.

16.41.110 Director--Accountability. The director and other administrative officers shall be held accountable to the mayor and the service area board only, and they shall make written and verbal reports to the mayor and the service area board as required by the mayor and the service area board. All other service area employees below the staff level shall be accountable to the director only or to such administrative officers as are designated by the mayor and the service area board.

16.41.120 Rules and regulations--Formulation and authority--Approval required. The service area board, or its designee, shall formulate a set of rules and regulations 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. Such rules and regulations shall be approved by the borough assembly by resolution.

16.41.130 Director--Reports required--Monthly. The director shall report monthly to the service area board indicating the condition of the road maintenance service

area equipment, service, usage, and other matters as required by the service area board.

16.41.140 Service board--Reports required--Annual.

The service area board shall make a complete annual report to the mayor within one month after the close of the fiscal year, such report to include the information specified by the rules and regulations of the borough, together with comparative data for previous years and recommendations for improving the services to the service area.

16.41.150 Procedure--Conduct of affairs--Meetings.

The service area 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 service area board in its delegated powers. The service area board shall adopt rules of procedure for the conduct of its meetings so long as such rules of procedure are not in conflict with rules and regulations governing the operations of the service area board. The service area board shall not attempt to enlarge upon its powers by the device of adopting bylaws or rules of procedure to govern its meetings, or the composition of the board or the assignment of committees.

16.41.160 Purchasing--Agent. The purchasing agent for the service area is the borough finance director. All purchases of supplies, materials, equipment, and the contractual services shall be made in accordance with the rules and regulations adopted by the borough assembly.

16.41.170 Budget and capital program. The service area 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 borough assembly. Public hearings are necessary and shall be a part of the budgetary procedures before submitting the budget to the borough assembly.

16.41.180 Accounts--Vouchers--Accounting. All accounting functions of the service area shall be under the supervision of the borough finance director who shall provide rules and regulations and procedures governing the issuance of vouchers, the payment of vouchers, the issuance of checks, and the payment of checks, the use of the central treasury of the borough, and the manner in

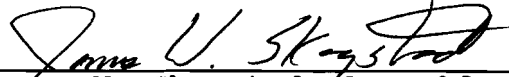
which all bonds, contracts, leases or other obligations requiring the payment of funds from the appropriations in the service area budget are to be processed and administered.

Section 3. That an organizational meeting for the board shall be held within 30 days of confirmation of the board appointees by the assembly for the purpose of electing officers and establishing terms of office.

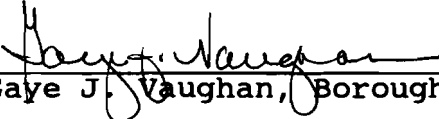
Section 4. That this ordinance shall take effect July 1, 1991.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH ON THIS

6th DAY OF August, 1991.


James W. Skogstad, Assembly President

ATTEST:


Gaye J. Vaughan, Borough Clerk