

Introduced by: Scalzi  
Date: 12/14/99  
Hearing: 01/18/00  
Action: Amended by Substitute  
Action: Enacted as Amended  
Vote: 8 Yes, 1 No

**KENAI PENINSULA BOROUGH  
ORDINANCE 99-71  
(SCALZI, MOSS) SUBSTITUTE**

**AN ORDINANCE ESTABLISHING THE KENAI PENINSULA BOROUGH SOUTH  
PENINSULA RECREATION SERVICE AREA**

- WHEREAS,** service areas may be established under KPB 16.04 and AS 29.35; and
- WHEREAS,** many Homer area residents have expressed interest in recreational amenities such as ballfields, skating facilities, and golf courses; and
- WHEREAS,** the borough recently adopted a comprehensive trails plan as part of its comprehensive land use plan; and
- WHEREAS,** Chapter 4 of the comprehensive plan recognizes considerable support for expanding and improving the condition of local trails; and
- WHEREAS,** the Kenai Peninsula Borough presently does not fund recreational facilities except through services areas; and
- WHEREAS,** the proposed new level of service may not be provided by an existing service area, by annexation to a city, or by incorporation as a city; and
- WHEREAS,** the most recent population figures available for the proposed area show that approximately 49% of the service area population resides outside of the cities of Homer and Kachemak City, 46% resides inside the City of Homer, and 5% resides inside of Kachemak City; and
- WHEREAS,** with the formation of a service area, grants and other funding sources may become more readily available for these purposes;

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

**SECTION 1.** That the KPB Code of Ordinances is amended by adding a new chapter to read as follows:

## **CHAPTER 16.74. KENAI PENINSULA BOROUGH SOUTH PENINSULA RECREATION SERVICE AREA**

### **16.74.010. Established—Boundaries.**

There is established pursuant to AS 29.35.450 a service area within the borough designated the "Kenai Peninsula Borough South Peninsula Recreation Service Area" including that portion of the borough inside and outside the city limits of Homer described as follows:

T5S, R11W, R12W, and T6S, R12W, R13W, R14W, R15W, Seward Meridian, Alaska, and all land within the corporate boundaries of the city of Homer.

### **16.74.020. Board—Established—Nomination and election of members.**

There is established a board of directors for the Kenai Peninsula Borough South Peninsula Recreation Service Area composed of five members who shall be residents of the service area and elected by the qualified voters of the service area as provided in KPB 4.20.020 and KPB 16.04.065. There shall be three members elected from the area of the service area residing outside of the city limits of Homer (Seats A, B, and C), and two members elected from within the city limits of Homer (Seats D and E).

### **16.74.030. 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 two members upon one day's notice thereof published in a newspaper having general distribution within the service area. The notice shall set forth the time and place of the meeting 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 44.62.310 and in accordance with the policies set forth in AS 44.62.312. Three board members shall constitute a quorum; however, any action shall require the affirmative vote of three board members.

### **16.74.040. 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.

**16.74.050. Board—Term of office.**

A member of the board of directors shall be elected to a term of three years and shall serve thereafter until a successor has been elected, 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.

**16.74.060. 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. resigns and his or her resignation is accepted;
- D. is physically or mentally unable to perform the duties of office;
- E. is removed from office;
- F. Misses three consecutive regular meetings unless excused;
- G. is convicted of a felony or of an offense involving a violation of the oath of office.

**16.74.070. Board—Vacancies—Filling.**

Vacancies on the board shall be filled by appointment by the mayor and confirmation by the assembly. The appointment shall be until the next general election of the borough, at which a new member shall be elected to fill the unexpired term, or for a three-year term if no unexpired term remains.

**16.74.080. Board—Powers and duties.**

A. The board of directors of the service area, subject to assembly approval and appropriation of funds and the provisions of KPB 16.04.001 and other applicable law, may construct and improve facilities, and acquire associated capital equipment, to provide recreational services within the service area. The borough shall retain ownership of equipment and facilities constructed or improved with service area funds, unless the assembly by ordinance authorizes the transfer of ownership to another entity.

B. The types of recreational activities for which the board may construct and improve facilities include but are not limited to parks, trails, ice rinks, golf courses, shooting ranges, and ballfields. The types of capital equipment that may be acquired for this service area include, without limitation, buses for transporting people within the service area to and from service area facilities, trail groomers, and

other similar equipment. The board shall endeavor to finance projects located throughout the service area, in rough proportion to the taxes collected from each tax code area. Subject to assembly approval, the board shall develop criteria which it shall use to evaluate and prioritize proposals for use of the service area funds.

C. Except as provided below, the service area shall not directly operate or maintain any recreational facilities or equipment, and must require applicants to demonstrate an ability to operate and maintain the facility or equipment for which borough funding is sought. The service area is not authorized to fund operating expenses of service area facilities or equipment, but may spend funds for maintenance to preserve the value of the asset in the absence of an operator, subject to appropriation and availability of funds.

D. The board shall advise the mayor and the assembly concerning the administration and operation of the service area.

E. The board shall promptly furnish accurate and complete copies of minutes of all board meetings to the mayor and assembly.

F. The board may adopt policies and procedures for the operation of the service area as approved by the mayor.

**SECTION 2.** That the service area board shall be elected at the election establishing the service area. Notwithstanding the provisions of KPB 16.74.050, board seats to be elected at the April 11, 2000, special election 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.

**SECTION 3.** That the following propositions shall be placed before the voters of the Kenai Peninsula Borough South Peninsula Recreation Service Area at a special by-mail election to be held April 11, 2000.

**PROPOSITION NO. 1**

**SHALL THE KENAI PENINSULA BOROUGH BE AUTHORIZED TO EXERCISE RECREATION POWERS, BY FUNDING CAPITAL IMPROVEMENT PROJECTS AND CAPITAL EQUIPMENT PURCHASES FOR RECREATIONAL PURPOSES, IN THE KENAI PENINSULA BOROUGH SOUTH PENINSULA RECREATION SERVICE AREA, WITHIN THE SERVICE AREA BOUNDARIES DEFINED BY ORDINANCE 99-71?**

YES ( )

NO ( )

PROPOSITION NO. 2

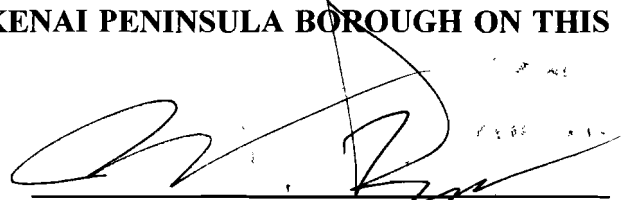
EXCEPT FOR SPECIAL ASSESSMENTS WITHIN AN IMPROVEMENT DISTRICT, SHALL THE SOUTH PENINSULA RECREATION SERVICE AREA BE LIMITED TO A MAXIMUM TAX OF .5 MILLS?

YES ( )

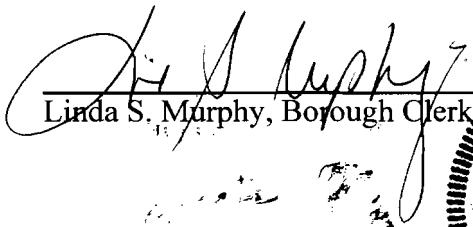
NO ( )

**SECTION 4.** Except as provided below, that this ordinance shall take effect upon approval of Proposition No. 1 in Section 3 above by a separate majority of the qualified voters voting on the issue residing in each of the following three areas: the City of Homer, Kachemak City, and all remaining areas of the service area, and also when either the borough receives Department of Justice preclearance under the Voting Rights Act of 1965 or 60 days after the Department of Justice has received the borough's request for preclearance, whichever is earlier. If the borough's request for Department of Justice preclearance has been resolved prior to the certification of the election results, the date of certification shall be the effective date of the ordinance. If the city councils of both Kachemak City and the City of Homer agree by ordinance to be included in this proposed service area prior to the election date in Section 3 of this ordinance, then separate approval by the voters of each area described above in this section is not required, and instead approval by majority of the qualified voters voting on the issue throughout the service area is required.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH ON THIS 18TH DAY OF JANUARY, 2000.**

  
William Popp, Assembly President

ATTEST:

  
Linda S. Murphy, Borough Clerk

