

Introduced by: Mayor at request of Road  
Service Area Board  
Date: 08/06/02  
Hearing: 09/03/02  
Action: Enacted  
Vote: 9 Yes, 0 No

**KENAI PENINSULA BOROUGH  
ORDINANCE 2002-31**

**AN ORDINANCE AMENDING KPBB CHAPTER 16.41 REGARDING THE KPBB ROAD  
SERVICE AREA**

**WHEREAS**, there is inconsistency among some of the general provisions of the service area codes and with the remainder of the borough code; and

**WHEREAS**, most provisions in the road service area code have not been revised since its adoption in 1991; and

**WHEREAS**, the road service area is the largest service area in the borough and provides road maintenance, improvement, and construction services to most areas of the borough outside of the cities; and

**WHEREAS**, the powers and duties of the service area board have increased since 1991; and

**WHEREAS**, the road service area code needs to be reorganized and reworded for clarification; and

**WHEREAS**, the road service area board approved these amendments at its July 16, 2002, meeting;

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

**SECTION 1.** That KPBB 16.04.090 is hereby repealed.

**SECTION 2.** That KPBB 16.41.020 is hereby amended as follows:

**16.41.020. Board—Established—Membership.**

A. Established. 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 (RSA).

B. Membership. The board shall consist of at least one member from each of the northern, central, eastern, and southern regions of the RSA as defined in the RSA Rules and Regulations and three members at large.

C. Membership criteria. The following criteria shall be considered when appointing board members:

1. familiarity with borough roads;

- 2. financial and budgetary management capability; and
- 3. 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.]

**SECTION 3.** That KPB 16.41.030 is hereby amended as follows:

**16.41.030. Board—Meetings—Quorum.**

A. Regular meetings. The board shall meet periodically at a regularly scheduled time and place designated by the board.

B. Special meetings. Special meetings of the board may be called by the chairman of the board [OF] 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.

C. Notice. The notice for all road service area board meetings shall set forth the time and place of the meeting, shall state the tentative agenda and 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.

D. Meetings open. 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.

E. Quorum. Four board members shall constitute a quorum; however, any action shall require the affirmative vote of four or more board members.

F. Agenda. The published tentative agenda may be amended by vote of four or more board members at the meeting.

**SECTION 4.** That KPB 16.41.040 is hereby amended as follows:

**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, E]Election of officers shall be held annually at the board's first meeting in October or as soon thereafter as practical. The board shall elect by majority vote of the board members and from the board members a chair[MAN], vice-chair, and such other officers as the board shall determine to be desirable in its bylaws who shall hold office until successors are elected.

**SECTION 5.** That KPB 16.41.050 is hereby amended as follows:

**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]. Terms of board members are staggered so that two directors are appointed one year, three directors are appointed the following year, and two directors are appointed in the third year of the rotation. Two at-large directors shall be appointed in the same year; the central, south, and east region directors shall be appointed in the same year; and the north region and an at-large position shall be appointed in the same year.

**SECTION 6.** That KPB 16.41.060 is hereby amended as follows:

**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 by the mayor and the assembly has confirmed the removal;
6. Misses three consecutive regular meetings unless excused by the board;
7. Is convicted of a felony or of an offense involving a violation of [THEIR] his or her 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] 16.41.020 above. The appointment shall be to fill the unexpired term or for a 3-year term if no unexpired term remains.

**SECTION 7.** That KPB 16.41.070 is hereby amended as follows:

**16.41.070. Board—Powers and duties.**

A. Powers. 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 construction, improvement and maintenance of roads within the service area[, AND].

B. Duties. The road service area board shall advise and make recommendations to the mayor and assembly concerning road maintenance, construction, and improvement issues, right-of-way regulation, and the operation and management of road service area activities.

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

D. Standards. Standards for construction and improvement for certification for maintenance shall be adopted by the board and approved by the assembly. Criteria for the provision of services within the road service area shall be established by board resolution and made available to the public.

E. Conflicts. This chapter shall be interpreted in harmony with other provisions of borough law where possible. Where the provisions of this chapter conflict with other provisions of borough law, this chapter shall control.

**SECTION 8.** That KPB 16.41.120 is hereby amended as follows:

**16.41.[120]080. 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] execution of the powers and duties delegated by the mayor and assembly. Such rules and regulations shall be approved by the [BOROUGH ASSEMBLY] RSA board by resolution and may address matters including, but not limited to, service area programs, contract services, general procedural rules, and organization of the service area. Such rules and regulations shall not conflict with any assembly ordinances or resolutions governing the RSA. Prior to adoption, the rules and regulations shall be submitted to the borough attorney's office for approval as to conformity with the borough code and other applicable provisions of law.

**SECTION 9.** That KPB 16.41.150 is hereby amended as follows:

**16.41.[150]090. 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]. The service area board may form subcommittees composed of board members with the assistance of borough staff to investigate specific matters within the board's jurisdiction. The bylaws, rules of procedure, and functions of any subcommittee formed shall not conflict with the assembly ordinances or resolutions governing service area matters.

**SECTION 10.** That KPB 16.41.130 is hereby amended as follows:

**16.41.[130]100. 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, financial status, right-of-way regulation, and other matters as required by the service area board.

**SECTION 11.** That KPB 16.41.140 is hereby amended as follows:

**16.41.[140]110. Service area board—Reports required—Annual.**

The service area board shall make a complete annual report to the mayor within [ONE] six months after the close of the fiscal year, such report to include the information [SPECIFIED BY THE RULES AND REGULATIONS OF THE BOROUGH] regarding formal board actions, construction and capital improvement projects, maintenance issues, and right-of-way regulation, together with comparative data for previous years and recommendations for improving the services to the service area.

**SECTION 12.** That KPB 16.41.080 is hereby amended as follows:

**16.41.[080]120. 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.

**SECTION 13.** That KPB 16.41.100 is hereby amended as follows:

**16.41.[100]130. [DIRECTOR] Administrative employees—Appointment, qualifications, and removal.**

The director and [SUCH] other administrative [OFFICERS AS MAY BE PROVIDED FOR] employees as determined necessary by the assembly and as defined by KPB 3.04.070 shall be appointed by the mayor after consideration of a 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.] Administrative employees serve at the pleasure of the mayor who may suspend or discharge such employees in his sole discretion. The service area board may independently make a recommendation to the mayor regarding the suspension or discharge of administrative employees; however, such suspension or discharge remains within the sole discretion of the mayor.

**SECTION 14.** That KPB 16.41.110 is hereby amended as follows:

**16.41.[110]140. [DIRECTOR] Administrative employees—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] administrative service level shall be accountable to the director [ONLY] or to such administrative [OFFICERS] employees as are designated by the mayor, which may be upon the recommendation of [AND] the service area board.

**SECTION 15.** That KPB 16.41.090 is hereby amended as follows:

**16.41.[090]150. Budget and fiscal control.**

A. Budget. 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 road service area board shall make recommendations regarding the budget and fiscal matters to the borough assembly and shall be responsible for budget and fiscal decisions delegated by the mayor or assembly as appropriate. Public hearings are necessary and shall be a part of the budgetary procedures before submitting the budget to the borough assembly. The finance director of the borough shall provide the service area board with the [RULES AND REGULATIONS] policies and procedures 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. Policies and procedures include assembly ordinances and resolutions and applicable administrative policies or practices.

B. All accounting functions of the service area shall be under the supervision of the borough finance director who shall provide policies and procedures governing the issuance and payment of invoices, the issuance 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. Policies and procedures include assembly ordinances and resolutions and applicable administrative policies or practices.

**SECTION 16.** That KPB 16.41.160 is hereby amended as follows:

**16.41.160. Purchasing—Agent.**

[THE PURCHASING AGENT FOR THE SERVICE AREA IS THE BOROUGH FINANCE DIRECTOR] Procurement and contractual matters for the service area are within the authority of the purchasing and contracting officer. All purchases of supplies, materials, equipment, and [THE] contractual services shall be made in accordance with [THE RULES AND REGULATIONS] applicable laws [ADOPTED BY THE BOROUGH ASSEMBLY] and administrative policy, procedures, and practices applicable to purchasing and contracting.

**SECTION 17.** That KPB 16.41.165 is hereby enacted as follows:

**16.41.165. Legal counsel**

Legal services are provided or procured by the borough attorney for the service area.

**SECTION 18.** That KPB 16.41.170 is hereby repealed.

**SECTION 19.** That KPB 16.41.180 is hereby repealed.

**SECTION 20.** That KPB 16.41.190 is hereby amended as follows:

**16.41.190. Road construction projects—Assembly approval.**

A. Annually the Road Service Area Board shall make a report and recommendation

to the Assembly regarding whether any road construction projects should be undertaken. The report may be, but need not be, included in the annual report required by KPB 16.41.110. In making the board's recommendation, the following criteria supports consideration of a construction project:

1. Whether there is available road service area funding;
2. Whether the road accesses public lands or facilities;
3. Whether the road is a collector road;
4. Whether there are funding sources in addition to road service area funds available for the project; and
5. Whether the construction will provide an improved alternate route to a road currently certified for maintenance.

B. Specific road construction projects shall be approved by the assembly upon consideration of the Road Service Area Board's recommendation.

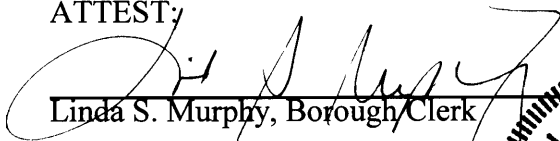
C. The Road Service Area Board shall recommend to the Assembly, for approval, procedures for implementing the criteria in KPB 16.41.190(A).

**SECTION 21.** That this ordinance takes effect immediately upon its adoption.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 3RD DAY OF SEPTEMBER, 2002.**

  
Timothy Navarre, Assembly President

ATTEST:

  
Linda S. Murphy, Borough Clerk

