

Introduced by:

Long, Mayor

Date:

02/04/03

Hearing:

03/11/03

Action:

Enacted as Amended

Vote:

7 Yes, 1No, 1 Absent

**KENAI PENINSULA BOROUGH
ORDINANCE 2003-03**

**AN ORDINANCE ESTABLISHING THE LOWELL POINT EMERGENCY SERVICE
AREA AND PROVIDING FOR AN ELECTED BOARD**

WHEREAS, the Lowell Point Community Council, Inc., ("community council") a nonprofit corporation, has actively been working towards providing fire protection services in the Lowell Point area for several years; and

WHEREAS, results from a survey recently mailed by the community council to all property owners in the proposed service area indicated strong support for creation of a borough service area; and

WHEREAS, the proposed service area encompasses the Lowell Point area on the eastern Kenai Peninsula immediately south of the City of Seward; and

WHEREAS, the fire and emergency medical services are needed within the proposed service area to provide additional resources to meet the needs of the residents of the service area; and

WHEREAS, services are currently provided intermittently by the city of Seward and Bear Creek Fire Service Area without formal authority, the single road connecting the proposed area to the City of Seward is not passable by emergency vehicles numerous times each year; and the response time would be much shorter with formation of a service area, enabling the vehicles and equipment to be located in the Lowell Point area; and

WHEREAS, due to the remote location, the size and population of the area, and the lack of needs for city government and certain character, resource, population, and boundary, and standards for annexation to cities as described in 3 AAC 110.090-.140, such services cannot be provided by an existing service area, by annexation to a city, or by incorporation as a city;

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

SECTION 1. Title 16 of the Kenai Peninsula Borough Code of Ordinances is amended by adding a new chapter 16.45, which shall read as follows:

Chapter 16.45. LOWELL POINT EMERGENCY SERVICE AREA

16.45.010. Boundaries.

There is established a service area within the borough designated as the “Lowell Point Emergency Service Area” in that portion of the borough described as all the following referenced to the Seward Meridian, Alaska:

Beginning at the section corner common to sections 16, 17, 20, 21 township 01 south range 01 west. Thence southerly along the section line to the section corner common to sections 28, 29, 32, 33 township 01 south range 01 west. Thence northerly along the mean high water line of Resurrection Bay to the section line common to sections 15 & 22 township 01 south range 01 west (also being the southerly boundary of the City of Seward). Thence westerly along said boundary to the point of beginning.

16.45.020. Mill levy.

No mill levy in excess of 1.75 mills shall be levied on behalf of the service area unless an increase is approved during the budgetary process.

16.45.030. Board of directors.

There is established a board of directors for oversight of the operations of the Lowell Point Emergency Service Area composed of five members who, except as provided below, 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. Notwithstanding the provisions of KPB 16.04.060, the first board shall be appointed by the mayor and confirmed by the assembly for terms expiring upon certification of the regular election held in October 2005. 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 seat C for three years.

16.45.040. 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 chair of the board or by any two 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 and shall be mailed or telephoned to each board member. All meetings shall be open to the public as provided by law. Three board members shall constitute a quorum; however, an action shall require the affirmative vote of three board members.

16.45.050. 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 chairman and such other officers as the board shall determine to be desirable who shall hold office until successors are elected.

16.45.060. Board—Terms of office.

Each member of the board of directors shall be elected for a term of three years and shall serve thereafter until his or her successor has been elected, qualified and sworn to assume the duties of the office, except that the first elected board shall contain members elected for lesser periods described in KPB 16.45.030.

16.45.070. 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. 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;
- D. Resigns and his or her resignation is accepted;
- E. Is physically or mentally unable to perform the duties of his or her office;
- F. Misses three consecutive regular meetings unless excused; or
- G. Is convicted of a felony or of an offense involving a violation of his or her oath of office.

16.45.080. Board—Vacancies—Filling.

Vacancies on the board shall be filled by majority vote of the remaining board until the next general election of the borough at which time a new member shall be elected to fill the unexpired term or for a three-year term if no unexpired term remains.

16.45.090. Board—Powers and duties.

Pursuant to the provisions of AS 29.35.460 the board of directors of the service area, subject to KPB 16.04.001, assembly approval and appropriation of funds, shall have the power to supervise the furnishing of fire and emergency medical services within the Lowell Point Emergency Service Area and shall promptly provide accurate and complete copies of minutes of all board meetings to the mayor and assembly. Subject to assembly approval, the board shall be responsible for developing, implementing, and updating a plan for furnishing fire and emergency medical services.

16.45.100. Personnel system—Rules and regulations.

Unless specifically provided otherwise, the borough personnel system and Title 3 of the Kenai Peninsula Borough Code of Ordinances apply to personnel employed by the Lowell Point Emergency Service Area.

16.45.110. Employee conduct requirements.

Employees of the Lowell Point Emergency Service Area are employees of the borough, and as such, are required at all times to conduct themselves in an exemplary manner befitting the public service in which they are employed.

16.45.120. Budget and fiscal control.

The formulation of a budget and fiscal control of expenditures of public monies of the Lowell Point Emergency Service Area are under the supervision and direction of the mayor and the assembly. The finance director of the borough shall provide the 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. The 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 assembly. Such public hearings as are necessary shall be a part of the budgetary procedures before the board and the assembly.

16.45.130. Officers—Appointment, qualifications, and removal.

The mayor, after considering the recommendation of the board, may appoint such administrative officers as the mayor deems necessary. These officers shall be subject to removal by the mayor as provided for administrative personnel in KPB 3.04.070. To the extent feasible, the mayor shall consider the recommendation of the service area board prior to such removal. The administrative officers shall administer policy as set by the board with the concurrence of the mayor.

16.45.140. Chief administrative officers—Accountability.

Administrative officers of the service area shall be held accountable to the mayor and the board only, and they shall make written and verbal reports to the mayor and the board as required by the mayor and the board. All other service area employees below the staff level shall be accountable to such administrative officers as are designated by the mayor and the board.

16.45.150. Policies—Formulation and authority—Approval required.

The board, or its designee, shall formulate policies 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. Prior to implementation, such policies shall be approved by the assembly by resolution.

16.45.160. Annual reports required.

The 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 service to the service area.

16.45.170. Procedure—Conduct of affairs—Meetings.

The 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 board in its delegated powers. The board shall adopt rules of procedure for the conduct of its meetings so long as such rules of procedure are not in conflict with bylaws and regulations governing the board.

16.45.180. Purchasing—Agent.

- A. The purchasing agent for the service area is the borough purchasing and contracts manager. All purchases of supplies, materials, equipment, and contractual services shall be made in accordance with the rules and regulations adopted by the assembly.
- B. All contracts for capital improvements and maintenance performed in connection with the service area shall be bid and administered by the borough public works department in accordance with the department's normal procedure for letting of contracts.

16.45.190. Accounts—Vouchers—Accounting.

All accounting functions for the service area shall be under the supervision of the borough finance director who shall provide rules, regulations, and procedures governing the issuance and payment of vouchers, the issuance and 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.

16.45.200. Fiscal procedures.

The service area shall abide by the fiscal policies and procedures applicable to the borough general government budget.

SECTION 2. That the following proposition shall be placed before the voters of the Lowell Point Emergency Service Area at a special by-mail election to be held in June 2003:


PROPOSITION:

“Do you approve the exercise of powers necessary to provide fire protection and emergency medical services within the Lowell Point Emergency Service Area established by Kenai Peninsula Borough Ordinance 2003-03.”

YES _____ NO _____

SECTION 3. That Section 2 of this ordinance takes effect immediately upon enactment of this ordinance. Section 1 shall take effect upon approval of the proposition in Section 2 by the majority of voters in the service area voting on the proposition at the special borough election to be held June 10, 2003, and upon the date the special election is certified by the borough assembly or the date the U.S. Department of Justice issues its nonobjection to preclearance, whichever is later. If the U.S. Department of Justice does not issue a nonobjection to preclearance, the effective date shall be 60 days from the date of receipt of the ballot proposition for preclearance by the U.S. Department of Justice or the date of the certification of the election results, whichever is later. If an objection is imposed by the U.S. Department of Justice, the ordinance shall not be effective until the objection is resolved.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 11TH
DAY OF MARCH, 2003.**


Pete Sprague, Assembly President

ATTEST:


Linda S. Murphy, Borough Clerk

