

Introduced by: Sprague, Glick  
Date: 10/14/03  
Hearing: 11/18/03  
Action: Postponed until 12/16/03  
Meeting Recessed until 12/17/03  
Action: Enacted as Amended  
Vote: 6 Yes, 3 No

**KENAI PENINSULA BOROUGH  
ORDINANCE 2003-39**

**AN ORDINANCE AMENDING KPB CHAPTER 2.58, CONFLICTS OF INTEREST**

**WHEREAS,** KPB Chapter 2.58 prohibits contractual relationships to be created between the borough and any of its officers, employees, or assembly members where such person has a substantial interest in the contract in their capacity other than the position with the borough; and

**WHEREAS,** KPB 2.58.010(E)(3) was amended in Ordinance 99-74 to provide that a person shall not necessarily be deemed to have an interest in the affairs of a nonprofit corporation of which the person is an unpaid director, solely by virtue of the directorship; and

**WHEREAS,** numerous borough officers and employees serve on the boards of nonprofit corporations in seats designated to be filled by a representative of the Kenai Peninsula Borough; and

**WHEREAS,** in that capacity the person generally serves on the board of directors primarily to ensure that the interests of the borough are protected but must also fulfill their duties to the nonprofit corporation; and

**WHEREAS,** the assembly finds that the best interest of the borough would be served by clarifying that such persons shall be deemed to have a conflict of interest solely by virtue of their position on the board of directors of the non-profit corporation except where such persons are appointed by the borough to serve on the board of directors; and

**WHEREAS,** to eliminate any appearance of a conflict or of impropriety the code should be amended to clarify that persons serving on nonprofit boards of directors shall be deemed to have a substantial interest as a result of a transaction with the borough by such corporation unless such person is appointed to the board by the borough;

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

**SECTION 1.** KPB 2.58.010(E) is hereby amended to read as follows:

- E. “Substantial interest” means a pecuniary or material benefit accruing to the person as a result of a private, business or professional transaction with the borough, or service area. The person shall be deemed to have an interest in the affairs of:

1. His or her spouse, spousal equivalency, minor children or dependents;
2. A firm, partnership or association of which such person is a member or employee;
3. A corporation of which the person is an officer, director or employee, [, EXCEPT THAT A] A person shall [NOT NECESSARILY] be deemed to have an interest in the affairs of a non[-]profit corporation of which the person is an unpaid director, solely by virtue of the directorship.
4. A corporation in which a person owns more than five percent of the stock, or which is controlled directly or indirectly by such person.

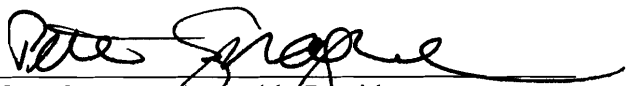
**SECTION 2.** That KPB 2.58.035 is amended by adding a new subparagraph E as follows:

- E. A person shall not be deemed to have an interest in the affairs of a nonprofit corporation of which the person is an unpaid director, appointed by the borough to fill a seat designated for a borough or service area officer or employee to represent the borough's interests on that board, solely by virtue of the directorship.

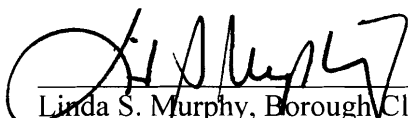
**SECTION 3.** Borough officers, directors and employees presently holding uncompensated positions on the board of directors of nonprofit corporations as representatives of the borough, who were appointed by either the mayor or the assembly president, are hereby deemed to not have a substantial interest in the affairs of the nonprofit corporation solely by virtue of such directorship.

**SECTION 4.** That this ordinance shall take effect immediately upon its enactment.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 17TH DAY OF DECEMBER, 2003.**

  
Pete Sprague, Assembly President

ATTEST:

  
Linda S. Murphy, Borough Clerk

