

Introduced by: Mayor  
Date: 07/08/08  
Hearing: 08/05/08  
Action: Enacted as Amended  
Vote: 9 Yes, 0 No, 0 Absent

**KENAI PENINSULA BOROUGH  
ORDINANCE 2008-22**

**AN ORDINANCE AUTHORIZING THE MAYOR TO DISSOLVE THE CENTRAL  
PENINSULA GENERAL HOSPITAL (CPGH) HOSPITAL LIABILITY TRUST  
AND TRANSFERRING THE FUNDS TO THE PLANT REPLACEMENT AND  
EXPANSION FUND AND THE CENTRAL KENAI PENINSULA  
HOSPITAL SERVICE AREA FUND BALANCE**

**WHEREAS,** the Kenai Peninsula Borough established the C.P.G.H. Hospital Liability Trust (“Trust”) in 1990 for the purpose, among others, of funding a self-insured retention fund for payment of claims of hospital liability, malpractice, and professional negligence liability alleged by third parties against the borough, the Central Peninsula Hospital (“Hospital”), the hospital operator, certain emergency room physicians, and other parties; and

**WHEREAS,** the Trust was funded over time with contributions totaling \$779,100 from the Hospital and \$1,000,000 from the Central Kenai Peninsula Hospital Service Area (“Service Area”), and interest earned on those funds; and

**WHEREAS,** the Trust has outlived its purpose as the statute of limitations has passed on any claims that may have been filed against the covered emergency room physicians and the hospital operator currently maintains liability insurance coverage for the remaining claims covered under the Trust, subject to a \$500,000 self-insured retention; and

**WHEREAS,** maintaining the Trust will cause the Trust to continue to incur fees payable to the Trustee, a financial institution, and additional minor administrative costs associated with maintaining the Trust; and

**WHEREAS,** as Trustor of the Trust, the Kenai Peninsula Borough reserved the power to revoke the Trust, which will entail dissolving it and distributing the funds to the appropriate parties; and

**WHEREAS,** the current balance of the Trust is \$2,911,579; and

**WHEREAS,** although the Trust Agreement provides that upon dissolution all trust funds should revert to the Borough, the funds should not be distributed to the general fund as they are all derived from Hospital operations, service area taxes, and interest; and

**WHEREAS,** Central Peninsula General Hospital, Inc. (“CPGH, Inc.”) is the current lessee and operator of the Hospital; and

**WHEREAS,** in fiscal year 2008 an actuarial analysis performed on the projected loss reserve needs of CPGH, Inc. concluded that the appropriate reserve amount is approximately \$1,399,569, which CPGH, Inc. has recorded as a reserve; and

**WHEREAS,** in accordance with the original intent of the Trust, it is appropriate to transfer funds in the amount of \$1,399,569 to CPGH, Inc. to cover the cost of the reserve needed for liability claims; and

**WHEREAS,** distributing the remaining funds to the Hospital and Service Area in the same proportion to the contributions made to the Trust is equitable; and

**WHEREAS,** this distribution would result in an additional \$662,136 (43.8 percent) being transferred to the Hospital and \$849,874 (56.2 percent) being transferred to the Service Area; and

**WHEREAS,** CPGH, Inc. has indicated that funds distributed to it from the Trust be transferred to the Plant Expansion and Replacement Fund; and

**WHEREAS,** funds distributed to the Service Area would revert to the Service Area’s fund balance until a use for the funds is determined following a public process; and

**WHEREAS,** at its meeting of September 27, 2007 the CPGH, Inc. Board of Directors recommended supporting the concept; and

**WHEREAS,** at its meeting of July 21, 2008, the Service Area Board recommended enactment by unanimous consent;

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

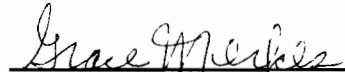
**SECTION 1.** That the mayor is authorized to terminate the CPGH Hospital Liability Trust and to execute all documents deemed necessary to effectuate the intents and purposes of this ordinance.

**SECTION 2.** That the sum of \$1,399,569 is transferred from the Trust funds to CPGH, Inc.; the sum of \$662,136 is transferred from the Trust funds to the CPGH Plant Replacement and Expansion Fund; and the sum of \$849,874 is transferred from the Trust funds to the Central Kenai Peninsula Hospital Service Area.


**SECTION 3.** That any residual in the Trust at time of closure be distributed by transferring 43.8 percent to CPGH Inc. and 56.2 percent to the Service Area.

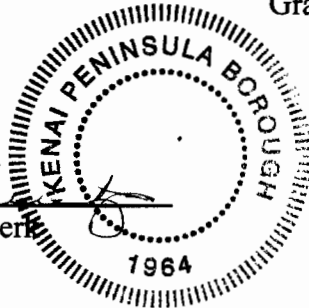
**SECTION 4.** That Sections 1 and 4 of this ordinance shall become effective immediately upon its enactment, and Sections 2 and 3 of this ordinance shall take effect upon termination of the CPGH Hospital Liability Trust.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 5TH DAY OF AUGUST, 2008.**

  
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Grace Merkes, Assembly President

ATTEST:

  
\_\_\_\_\_  
Johni Blankenship, Borough Clerk



Yes: Fischer, Gilman, Knopp, Long, Martin, Smith, Sprague, Superman, Merkes  
No: None  
Absent: None