



KENAI PENINSULA BOROUGH

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DAVE CAREY
BOROUGH MAYOR

MEMORANDUM

TO: Milli Martin, Assembly President
Members, Kenai Peninsula Borough Assembly

FROM: Gary Superman, Assembly Member
Gary Knopp, Assembly Member *G.K.*

DATE: December 23, 2008

SUBJECT: Ordinance 2009- 03, amending KPB Chapter 5.35 regarding special assessment districts for public utilities, to redefine benefitted parcels

Since the original enactment of Chapter 5.35 in 1992, which authorized the borough to form and finance special assessment districts for the extension of public utilities, the borough has approved the creation of numerous special assessment districts for gas lines. The current code requires that 70 percent of the owners of the parcels and of the value of the parcels in the district sign a petition to form the assessment district. However, increasing numbers of questions have arisen regarding the manner in which benefitted properties are defined. Currently, properties are considered benefitted if the main utility line is adjacent to the property unless there is no conceivable way that the property can utilize the proposed utility. This ordinance would amend the code to define benefitted parcels as those belonging to persons who sign the petition and intend to connect to the main line within ten years of the formation of the district. The only properties included in the boundary of the district would be those meeting this definition of "benefitted." whose owners signed the petition supporting formation of the district.

This ordinance is intended to bring this matter to the assembly for discussion, and it is expected that there will be further refinements as a part of the public process. The assembly is given broad discretion in determining what properties are benefitted provided the definition is not arbitrary or capricious. Including properties that will actually connect to the line, or whose owners intend that they will actually connect to the main line, shows a clear benefit to the property as opposed to the more speculative benefit associated with having the line running adjacent to the property. The Legal Department is continuing to research legal issues associated with this approach.

Your support is appreciated for the introduction of this ordinance, thereby allowing for a public process to consider these issues. Thank you for your consideration.