

Introduced by:	Fischer
Substitute Introduced:	07/07/09
O2009-32 (Sprague, Knopp):	See Original for Prior History
Hearings:	07/07/09 & 08/04/09
Action:	Postponed as Amended Until 08/04/09
Date:	08/04/09
Action:	Tabled
Vote:	8 Yes, 1 No, 0 Absent

**KENAI PENINSULA BOROUGH
ORDINANCE 2009-32
(FISCHER) SUBSTITUTE**

**AN ORDINANCE ESTABLISHING THE CENTRAL PENINSULA MULTI-USE
FACILITY SERVICE AREA**

WHEREAS, at this time there is no facility in the central area of the Kenai Peninsula that is large enough to accommodate youth or adult sports, wellness programs, community recreational opportunities, sports shows, exhibitions, and other special events during the winter and shoulder weather season; and

WHEREAS, many high school youth and community sports teams will benefit greatly, and become more competitive, if practice and competition facilities are available year-round; and

WHEREAS, the existing school track facilities are aging, some are in very poor condition, and a large investment will be required in the near future to meet standards; and

WHEREAS, through a survey, a large number of organizations and community members and school district have indicated their support and potential use of such a facility; and

WHEREAS, an ad-hoc committee of numerous community members has been working to develop the concept of construction and operation of a multi-use facility to be built in the central Kenai Peninsula and formed a nonprofit corporation in early 2009 called the Central Peninsula Sports Facility, Inc.; and

WHEREAS, the stated mission of the Central Peninsula Sports Facility, Inc. is to "seek to serve the Kenai Peninsula Borough and the State of Alaska with a premier, multi-purpose facility; offering a diverse blend of recreational wellness opportunities, academic, cultural and entertainment activities that meet the interests of these population."

WHEREAS, the CPSF, Inc. commissioned a feasibility study with USKH, an Alaskan Consultant Corporation, along with architects and recreational facility planners to evaluate the feasibility of this project; and

WHEREAS, the feasibility study was completed in May of 2009 that evaluated different construction building options, potential user groups, probable operational costs, potential revenues, probable expenses, project financing debt service, potential revenue shortfalls, and possible service area formation and user fees for the project; and

WHEREAS, as the facility would primarily serve the central peninsula area, CPSF, Inc. has asked that the assembly form a service area to fund the construction and operation of this facility, which would be subject to voter approval; and

WHEREAS, it is intended that the facility's construction would be funded through bonds and/or grants through the service area; and

WHEREAS, on June 23, 2009, the assembly conducted a public meeting in the central peninsula area to receive public comments regarding the formation of this service area; and

WHEREAS, the proposed boundary of this service area would be the same as the current boundary for the Central Kenai Peninsula Hospital Service Area with the exception that the North Peninsula Recreation Service Area is excluded in its entirety; and

WHEREAS, due to the size and population of the proposed area, the lack of need for city government and certain character, resource, population, and boundary standards for city annexation 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; and

WHEREAS, because the proposed service area includes the cities of Kenai and Soldotna, the approval of this service area must receive a separate majority approval from the voters residing in (1) the area of the borough outside of the cities and inside the service area boundaries; (2) the voters residing in the city of Soldotna; and (3) the voters residing in the City of Kenai; and

WHEREAS, construction and operation of this multi-use facility would be in the best interests of the borough as it would provide an opportunity for the public to use a year-round facility enabling them to be more competitive with other areas of Alaska and other states that already either use similar facilities or are able to use the outdoor venues year-round, would encourage public involvement in sports as well as cultural and wellness programs, and would stimulate the economy by providing a place to hold more events in the Kenai Peninsula Borough by attracting participants and associated personnel throughout the year by using hotels, restaurants, gift shops, stores, and other businesses;

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

SECTION 1. That Title 16 of the Kenai Peninsula Borough Code of Ordinances is amended by adding a new Chapter 16.80, which shall read as follows:

CHAPTER 16.80. CENTRAL PENINSULA MULTI-USE FACILITY SERVICE AREA

16.80.010. Boundaries.

There is established a service area within the borough designated as the "Central Peninsula Multi-Use Facility Service Area" in that portion of the borough, with the exclusion of the North Peninsula Recreation Service Area in its entirety, described as all the following referenced to the Seward Meridian, Alaska:

There is established service area within the borough designated as the "Central Peninsula Multi-Use Facility Service Area" in that portion of the borough described as all the following referenced to the Seward Meridian:

Beginning in Turnagain Arm at the N.E. corner of T11N, R5W, (projected) Seward Meridian, state of Alaska,

Thence south to the N.E. corner of T9N, R5W;

Thence southwest to the N.E. corner of T6N, R10W;

Thence south to the S.E. corner of T6N, R10W;

Thence west to the S.E. corner of Section 32, T6N, R10W;

Thence north to the N.E. corner of Section 32, T6N, R10W;

Thence west to the boundary of the corporate limits of the city of Kenai, the S.E. corner of Section 25, T6N, R11W;

Thence northerly and westerly following the boundary of the corporate limits of the city of Kenai, as follows: "thence north to the N.E. corner of the SE 1/4 of Section 24, T6N, R11W, thence west to the S.E. corner of the NW 1/4 of Section 24, T6N, R11W, thence north to the N.E. corner of the NW 1/4 of Section 24, T6N, R11W, thence west to the N.E. corner of the NW 1/4 of Section 20, T6N, R11W, thence south to the S.E. corner of the NW 1/4 of Section 29, T6N, R11W, thence west to the S.E. corner of the W 1/2 E 1/2 E 1/2 NW 1/4 Section 25, T6N, R12W, thence north to the N.E. corner of the W 1/2 E 1/2 E 1/2 NW 1/4, Section 25, T6N, R12W, thence west to a point on the shore of Cook Inlet that is common to Section

23 and Section 26, T.6N., R.12W.," thence leaving the corporate limits of the city of Kenai southwesterly to the S.E. corner of T6N, R14W, (projected) said corner being in Cook Inlet;

Thence west to the Kenai Peninsula Borough boundary, the S.W. corner of T6N, R23W, (projected);

Thence south to the S.W. corner of T5N, R23W, (projected);

Thence west to the N.W. corner of T4N, R24W, (projected);

Thence south to the S.W. corner of T1N, R24W, (projected);

Thence east along the Seward baseline to a point 3 miles offshore in Cook Inlet;

Thence northeasterly to the intersection with the township line between T1N and T2N at a point three miles offshore in Cook Inlet;

Thence east along the township line between T1N and T2N to the intersection of election district numbers 9 and 10;

Thence northeasterly along the boundary between election districts numbers 9 and 10 to the intersection of the Kenai National Moose Range and the Chugach National Forest;

Thence north along the common boundary of the Kenai National Moose Range and the Chugach National Forest to Mean High Water Line of Chickaloon Bay;

Thence northwesterly to N.E. corner of T11N, R5W, (projected) said corner being in Turnagain Arm, the point of beginning.

16.80.020. Mill Levy.

No mill levy in excess of .5 mills shall be levied on behalf of the service area unless an increase is approved by the assembly during the budgetary process.

16.80.030. Authorized functions of the Central Peninsula Multi-Use Facility Service Area.

Subject to assembly approval and appropriation of funds and the provisions of KPB 16.04.001, the service area shall provide for the construction, operation, and maintenance of a multi-use facility to be located in the central peninsula area that is large enough to provide a venue to practice and compete in youth or adult sports that normally require a large area. Specific examples of such sports include soccer, football, lacross, softball, baseball, track and field events, golf and other similar

recreational sports activities. This facility may also be used for sports shows, exhibitions, academic and cultural events and services, wellness programs and other special events.

16.80.040. Board—Established—Nomination and election of members.

There is established a board of directors for the Central Peninsula Multi-Use Facility Service Area composed of five members who shall be nominated and elected by the qualified voters of the service area as provided in KPB 4.02.020(D) and KPB 16.04.065.

16.80.050. 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 chairman of the board or by any two members upon notice thereof published in a newspaper having general distribution within the service area and in compliance with the Open Meetings Act. The notice shall set forth the time and place of the meeting 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. All meetings are open to the public as provided in AS 29.23.580 and AS 44.62.310 and in accordance with the policies set forth in AS 44.62.312. Three board members shall constitute a quorum; however, any action shall require the affirmative vote of 3 board members.

16.80.060. 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.

16.80.070. Board—Term of office.

A member of the board of directors shall be elected for a term of three years and shall serve thereafter until a successor has been elected, qualified, and sworn to assume the duties of the office, except that the first board shall contain members elected for lesser periods as designated in the documents setting up the election to provide for staggered terms.

16.80.080. 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 election or appointment;

- B. Is physically absent from the service area for a 90-day period, unless excused by the board;
- C. Resigns and the resignation is accepted;
- D. Is physically or mentally unable to perform the duties of office;
- E. Is removed from office;
- F. Misses three consecutive regular meetings unless excused;
- G. Is convicted of a felony or of an offense involving a violation of the oath of office.

16.80.090. Board—Vacancies—Filling.

Vacancies on the board shall be filled by majority vote of the remaining board until the next regular 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. The clerk shall provide at least 21 days' advance public notice before filling the vacancy. Public notice may be provided by publication through print or broadcast media, posting at the primary service area office or at the borough administration building, and such other publication as the service area board deems appropriate.

16.80.100. Board—Powers and duties.

The board of directors of the service area, subject to assembly approval and appropriation of funds and the provisions of KPB 16.04.001, shall provide for recreation services and programs within the service area and may construct, operate and maintain facilities to provide such services. The board shall advise the mayor and the assembly concerning the administration and operation of the service area. The board shall promptly furnish accurate and complete copies of minutes of all board meetings to the mayor and assembly.

16.80.110. Personnel system rules and regulations.

Unless specifically provided otherwise, the borough personnel system and Title 3 of the Kenai Peninsula Borough Code of Ordinances applies to the personnel employed by this service area.

16.80.120. Employee conduct requirements.

Employees of the 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.

16.80.130. Budget and fiscal control.

The formulation of a budget and fiscal control of expenditures of public moneys of this service area are under the supervision and direction of the mayor and the assembly.

16.80.140. Administrative officer.

The administrative officer shall be held accountable to the mayor and shall make written and verbal reports to the mayor as required by the mayor. The administrative officer shall provide quarterly reports to the mayor indicating the condition of the multi-use facility, equipment, service usage, and other matters as required by the mayor. Copies of such reports shall be provided to the assembly.

16.80.150. Purchasing agent.

The purchasing agent for the service area is the borough purchasing officer. All purchases of supplies, materials, equipment, and contractual services shall be made in accordance with the rules and regulations adopted by the borough assembly and administratively by the mayor. 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.

16.80.160. Budget and capital program.

The service area administrator shall prepare a budget and capital program which shall be submitted to the mayor for approval. The budget and capital expenditure proposal shall be subject to the procedures for adopting the borough budget and capital expenditures program subject to approval by the borough assembly.

16.80.170. Accounts—Vouchers—Accounting.

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

SECTION 2. That the following proposition shall be placed before the voters of the Central Peninsula Multi-Use Facility Service Area at the regular election to be held on October 6, 2009:

PROPOSITION:

Shall the Kenai Peninsula Borough be authorized to exercise powers to construct, maintain, and operate a multi-use facility to accommodate sport activities and events, recreational wellness opportunities, academic, cultural, and entertainment activities and services in the Central Peninsula Multi-Use Facility Service Area within the service area boundaries defined by Ordinance 2009-_____.

YES _____

NO _____

SECTION 3. That Section 2 of this ordinance shall take effect immediately upon its adoption, and Section 1 of this ordinance shall take effect upon approval of the proposition in Section 2 above by a majority of the qualified voters voting on the issue in the manner described in Section 4 of this ordinance and when either the borough receives Department of Justice preclearance under the Voting Rights Act of 1965 or 60 days after the Department of Justice has received the borough's request for preclearance, whichever is earlier. If the borough's request for Department of Justice preclearance has been resolved prior to the certification of the election results, the date of certification shall be the effective date of the ordinance.

SECTION 4. That this ordinance shall also only take effect after the cities of Soldotna and Kenai either agree to be included in the service area by ordinance, or approval is granted by a majority of the voters in each city and residing inside the boundaries of the proposed service area but outside of the city as required by AS 29.35.450(a). If either the City of Soldotna or the City of Kenai decline to approve inclusion in the service area by ordinance, then a single ballot proposition as described in Section 2 must be approved separately by a majority of the voters of the City of Soldotna, the City of Kenai, and the area of the borough outside of the cities in order to pass. If both cities agree by ordinance to be included in the service area, then the proposition shall pass if it is approved by a majority of the voters in the entire service area.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS * DAY OF * 2009.

Milli Martin, Assembly President

ATTEST:

Johni Blankenship, Borough Clerk

Vote on Motion to Table:

Yes: Fischer, Knopp, Long, Pierce, Smalley, Smith, Sprague, Martin

No: Superman

Absent: None