

February 15, 2010

Kenai Peninsula Borough
144 N. Binkley St.
Soldotna, AK 99669

Dear Borough Assembly Members:

I am **opposed** to Ordinance 2010-07 which would prohibit a person from serving simultaneously as a member of the assembly and member of a city council within the borough. Constituents benefit when a dedicated citizen is willing to be a dual office holder. The extensive knowledge gained from service on both the borough assembly and city councils equips the elected official with increased insight supporting better decision making.

Having attended many City of Kenai Council meetings this past year I have appreciated the synergy achieved by having a council member who also serves as an assembly member. Councilor Hal Smalley has reported important and relevant information to the Kenai City Council on multiple occasions. These reports have aided both the council and citizens attending the meetings. Through personal service on multiple councils, boards, task forces and committees I have found the knowledge transfer that occurs when officers augment discussions with additional and helpful insights gained through their work on other governing bodies to be extremely valuable.


Ordinance 2010-07 is based on two faulty premises. The first false premise is that the borough assembly and city councils are incompatible governing bodies, when in fact they are extremely complementary bodies sharing common goals with a history of working well together. The second false premise is that dual office holding, in this instance, has been held improper. This is incongruous with the borough's successful history of this very practice.

Conflict of interests will naturally occur in any governing body. Provisions are in place to deal with these issues when they happen. In particular a dual office holder's potential conflicts are transparently obvious and can be handled with the utmost level of professionalism.

This Ordinance appears to be a poorly veiled attempt targeted to prevent assemblyman and councilor Hal Smalley from serving in both capacities. The voters are very capable of addressing this situation should it ever become problematic and require attention. I appreciate the freedom to vote for the most qualified candidate and ask that you protect my right to do so by rejecting this misguided ordinance.

Please vote against Ordinance 2010-07.

Sincerely,



Colleen Ward
708 Magic Avenue
Kenai, AK 99611
(907) 283-4796

Turner , Michele

From: Blankenship, Johni
Sent: Tuesday, February 16, 2010 10:13 AM
To: Turner , Michele
Subject: FW: Please vote NO on Ordinance 2010-07

Agenda Item

-----Original Message-----

From: P. Falkenberg [mailto:pet_rainbow@yahoo.com]
Sent: Tuesday, February 16, 2010 9:53 AM
To: Blankenship, Johni
Cc: gary superman; Hal Smalley; gary superman; psprague@acsalaska.net; cpierce@gci.net; suemccl@gmail.com; Paul Fischer; bsmith@xyz.net; mako@xyz.net
Subject: Please vote NO on Ordinance 2010-07

Kenai Peninsula Borough Assembly
144 N. Binkley Street
Soldotna, Ak 99699

Dear Assembly Members:

I am a long time Kenai resident and unfortunately will not be available to testify in person this evening. I am writing this letter to ask you to vote against ordinance 2010-07.

This ordinance if passed would prevent a Kenai Council member; Hal Smalley from running in the city of Kenai municipal election in October 2010.

This ordinance would also restrict my right to vote for the person of my choice to serve on that council.

Hal Smalley has chosen to serve his community at both levels of government and in my estimation has done an outstanding job. There is nothing in our state law which prohibits him from holding those dual offices.

I ask that you remember that it is the voters, like myself, that have placed him in both of these positions.

Please vote NO on ordinance 2010-07.

Sincerely,

Pat Falkenberg
399 McCollum Drive
Kenai, Ak 99611

2/16/2010

Kristine A. Schmidt
513 Ash Avenue
Kenai, Alaska 99611
(907)283-7373
February 14, 2010

Kenai Peninsula Borough Assembly
144 N. Binkley St.
Soldotna, Alaska 99669

Dear Borough Assembly Members:

I am sorry to see the divisive Ordinance 2010-07 on the Borough Assembly agenda for the February 16, 2010 meeting, and ask you to vote against this ordinance, for the following reasons.

1. As a long-time Kenai resident and voter, I object to the Borough Assembly dictating who can and cannot serve as the Kenai representative on the Assembly. As long as the candidate meets the qualifications to be a Borough Assembly member under KPB 4.30.010 (qualified voter, resident of the district), they should be allowed to serve.

2. This ordinance is clearly directed towards one person: Borough Assembly/Kenai City Council member Hal Smalley. When Mr. Smalley ran for the Assembly in 2008, Kenai voters knew he had previously been elected (in 2007) and was serving on the Kenai City Council at that time. Nevertheless, Mr. Smalley was elected by a wide margin over his competition. Therefore, it obviously was not a problem for Kenai voters that Mr. Smalley held both offices.

3. Several Borough Assembly members were against term limits as applied to the Assembly, and gave as the rationale "freedom to vote." To be consistent (or, put another way, to avoid being called hypocritical), the same Assembly members who were against term limits as restricting the freedom to vote should vote against Ordinance 2010-07, as it is also restricting Kenai residents' right to vote for the person of their choice.

4. There is nothing in Alaska law which prohibits holding dual office holding. Or, put another way, it is not illegal to hold office on the Borough Assembly and on a city council within the Borough. **In fact, the Kenai Peninsula Borough assembly was, for many years, composed of city council members who served on both bodies. See, Ordinance 71-20, "An Ordinance Relating to the Composition of the Assembly," attached. This ordinance required that the Borough assembly member from Kenai also be a city council member.** No one complained about "incompatible offices" for the many years this ordinance was in effect.

5. The discussion in the Ordinance 2010-07 WHEREAS clauses about "dual offices" is a red herring. This discussion comes from (a) municipal law treatise(s). Municipal law treatises are not law, but are a compilation of different municipal laws and policies from around the country. Municipalities are free to ignore the policies stated in these treatises. Clearly, in requiring that Borough assembly members from the cities be city council members, past Borough assemblies followed a policy that this type of dual office holding was not "incompatible offices." There is no compelling reason for the 2010 Borough Assembly to change this policy at this time.

6. I question the timing of this ordinance, coming forth the year that Assembly member Smalley's seat on the Kenai city council is up for re-election. Especially taken together with the sponsor's memo statement: "...this ordinance applies to any assembly member elected to a city council...after the effective date of this ordinance." To me, the intent of this ordinance appears to be to keep Mr. Smalley from running for re-election to Kenai City Council in 2010. I object to the Borough assembly involving itself in the 2010 Kenai election process, through this ordinance.

In conclusion, please vote "No" on Ordinance 2010-07. *Thank you!*

Sincerely,



KRISTINE A. SCHMIDT

Introduced by: Administration
September 7, 1971

Hearing: October 12, 1971

KENAI PENINSULA BOROUGH

ORDINANCE 71-20

AN ORDINANCE ENTITLED: AN ORDINANCE RELATING TO THE
COMPOSITION OF THE ASSEMBLY

WHEREAS, the Attorney General of the State of Alaska has given his opinion that borough assemblies must be apportioned in accordance with "one man - one vote" principles as expressed in the decisions of the U. S. Supreme Court, regardless of the provisions of AS 07.10.040; and,

WHEREAS, said Attorney General's opinion states that a system of weighted voting is an acceptable means to achieve a proper apportionment, at least on a temporary basis; and,

WHEREAS, a weighted voting system would be most suitable for the Kenai Peninsula Borough, otherwise the varying sizes of the cities would necessitate a large assembly which would be costly and perhaps unwieldy.

BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI
PENINSULA BOROUGH:

Section 1. Sec. 05.10.005 of the Kenai Peninsula Borough Code of Ordinances is repealed and reenacted to read:

Sec. 05.10.005. Assembly - Composition, Apportionment and Terms. (a) The assembly shall consist of 16 members having total votes of 144. Members and their votes shall be apportioned as follows:

1060

<u>City</u>	<u>Assemblymen</u>	<u>Votes</u>	<u>Total</u>
Homer	<u>1</u>	10	10
Kenai	<u>3</u>	<u>10</u> 2/3	<u>32</u>
Seldovia	<u>1</u>	<u>4</u>	<u>4</u>
Seward	<u>2</u>	<u>7</u> 1/2	<u>15</u>
Soldotna	<u>1</u>	<u>11</u>	<u>11</u>
Non-City	<u>8</u>	<u>9</u>	<u>72</u>
<hr/>			
TOTAL	<u>16</u>		<u>144</u>

(b) Members of the assembly representing the area outside first class cities are elected at large for staggered terms of three years. Members of the assembly representing first class cities are appointed by and from the city councils for terms of three years.

(c) The weighted voting system provided for in (a) of this section shall be applicable to all actions of the assembly without regard to AS 07.20.070(d) including actions taken when sitting as a Board of Equalization or Board of Adjustment.

Section 2. Nothing contained in this ordinance shall affect the terms of existing assemblymen.

Section 3. This ordinance takes effect thirty (30) days after enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 12 DAY OF October, 1971.



Assembly President

ATTEST:


Borough Clerk

Subject: FW: Ordinance 2010-07

From: Janine Espy [mailto:dialaprayer@yahoo.com]

Sent: Tuesday, April 06, 2010 4:43 PM

To: Blankenship, Johni

Subject: Ordinance 2010-07

I am sorry for such a late email but I would like to ask the Borough Assembly to vote "NO" on Ordinance 2010-07 which will be on their agenda tonight. I do not see that dual service is a detriment to public interest but in fact the opposite. An example of that is Hal Smalley who serves on the Borough Assembly and the Kenai City Council and brings a report to the Kenai City Council meetings on what has been happening at the Borough Assembly meetings. This is helpful to the council in decision making and awareness of issues that could affect the City of Kenai.

Sincerely,
Janine Espy
403 McCollum Drive
Kenai, Alaska