



KENAI PENINSULA BOROUGH

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DAVID R. CAREY
BOROUGH MAYOR

TO: Gary Knopp, Assembly President
Members, Kenai Peninsula Borough Assembly

FROM: David R. Carey, Borough Mayor *David R. Carey*

DATE: August 12, 2011

RE: Veto of Ordinance 2011-24, Amending KPB 22.30.030 to Redefine a Full Term Of Office With Respect To Assembly Term Limits

I have spent a great deal of time deliberating the enactment of Kenai Peninsula Borough Ordinance 2011-24 which amends the borough code to redefine a term of office for assembly members with respect to term limits. While I am quite reluctant to exercise the mayor's veto authority, for the reasons stated below I have decided to veto ordinance 2011-24 and hereby do so.

As a preliminary matter I wish to clarify that this veto is not related to the issue of term limits, nor is it intended as a criticism of the final product.

Instead, my essential objection is that the process did not provide adequate public notice and opportunity for public comment on the amendments first presented and approved on August 2, 2011. These amendments eliminated the voter approval requirement, increased the number of years an assembly member can serve, and extensively changed the title. After consultation with the legal department, I believe these changes were significant. Everything noticed stated the changes being considered would be put before the voters.

AS 29.20.270 provides that a veto may be overridden within 21 days following the exercise of the veto or the next regular meeting, whichever is later. Respectfully I submit this matter for your deliberation.

Term Limits Calls

Name	Date	Name	Date
Etsley Dunn	8/8/2011	Wesley Newcomb	8/10/2011
Joan Odd	8/8/2011	Dave Becker	8/10/2011
Diane McRae	8/8/2011	Hugh Littrell	8/10/2011
James McRae	8/8/2011	Darci Kindt	8/10/2011
Melvin Dunn	8/9/2011	Jeri Billott	8/10/2011
George Pierce	8/9/2011	Carol Kindt	8/10/2011
Jean Pierce	8/9/2011	Caroline Johnson	8/10/2011
Debbie Brown	8/9/2011	Gaylan Johnson	8/10/2011
Roxane Mathewson	8/9/2011	Glen Dellhemmer	8/10/2011
Julianna Carlson	8/9/2011	Sharon Hayes	8/10/2011
Dave Becker	8/9/2011 x 2	Ben Firth	8/10/2011
Gina Creedon	8/10/2011	Mrs. Rosenbalm	8/10/2011
Tom Stroozas	8/10/2011	J.R. Myers	8/10/2011
Fred Kaatz	8/10/2011	Gina Bogart	8/10/2011
Jean Scroeder	8/10/2011	Jim Chambers	8/10/2011
Eric in Homer	8/10/2011	Richard Demello	8/10/2011
No Name	8/10/2011	Ed Martin	8/11/2011
No Name	8/10/2011	Joyce Fischer	8/11/2011
No Name	8/10/2011	Ruby Denison	8/11/2011
Glen Harbaugh	8/10/2011	Mike McBride	8/11/2011
Carol Coleman	8/10/2011	David Truss	8/11/2011
Ross Wolfe	8/10/2011	Ted Sissen	8/11/2011
Marianne McGahle	8/10/2011	Vickie Leach	8/11/2011
Steve Feerer	8/10/2011	Anette O'Connell	8/11/2011
James Hadley	8/10/2011		
No Name	8/10/2011		
Steve Wolfe	8/10/2011		
Lana Lamoureux	8/10/2011		
Ken Ozment	8/10/2011		
Dennis Wade	8/10/2011		
Janice Preston	8/10/2011		
Craig Baringer	8/10/2011		
Fred Marshall	8/10/2011		
Don McDonald	8/10/2011		
Abby Warren	8/10/2011		
Melanie Firth	8/10/2011		
No Name	8/10/2011		
Leon Smith	8/10/2011		
Ray Kranich	8/10/2011		
Barnibus Firth	8/10/2011		
No Name	8/10/2011		
Delora Firth	8/10/2011		
Marylin Hendren	8/10/2011		
Marlena	8/10/2011		

Sent: Thursday, August 11, 2011 11:20 AM
To: Carey, Dave
Subject: Term Limits

Dear Mayor Carey:

I hope that you get lots of response from the public about the assembly's actions re: term limits, and that you will veto their actions. Frankly Scarlet it amazes me that they continue to make an issue of term limits. The public has spoken many times on this issue. I respect your opinion and welcome any suggestions on how to handle this delicate matter. Mr. Smith needs to follow the wishes of the entire borough, because his vote affects all of the borough vote;not just his constituents.

Cherish the Day!!!!
Petria Falkenberg

From: Ruby Denison
Sent: Thursday, August 11, 2011 9:15 AM
To: Carey, Dave
Subject: RE:

Mr. Mayor,

This is my comment, and not that of the ACT board. I considered both a referendum and a lawsuit however, I do not have the "go power" to make it happen or the \$\$ to see it through. As I see it, the only recourse we have at the moment is through "the public square media." Since they put the enact date after Oct. 11, we have no legal standing in the court ... and, ultimately ... after thousands of dollars we would lose. I am tired of supporting the "legal" community.

As you know a referendum is not very expensive but in terms of manpower it is overwhelming and speed is of concern. I guess I still have faith in Collette and Johni to explain that Bill Smith is not a viable candidate. Clearly the terms of the initiative are in effect until after the election. The very audacity of him to file papers is so typical of this assembly, particularly the rep from Soldotna. Further, we have been doing all the heavy lifting for years and some of the general public recognizes it but does little to work with us. I am at a loss about how to get them fired up. (probably should not be writing this opinion down) ... Anyway, hopefully your inbox is filling with requests for a veto of 2011-24 (Term Limits change). (I thought it was #23)

Thanks for your support and input.

Ruby in Ninilchik

From: M & M
Sent: Thursday, August 11, 2011 9:55 AM
To: Carey, Dave
Subject: Borough Assembly Term Limits

Dear Mr. Mayor,

I would like to remind you that FOUR times the voters of this borough have approved term limits for the assembly. The assembly has a long history of ignoring the voters and their blatant arrogance must be challenged.

I would strongly urge you to VETO KPB 2011-24 and force the assembly to have another vote.... just in case some of them find their moral compass to represent the voters interest, not their own!

Please add my remarks to the official record.

Respectfully,

Mike McBride

From: JRM
Sent: Wednesday, August 10, 2011 9:59 AM
To: Carey, Dave
Subject: Veto Term Limits Redefinition

Dear Mayor Carey,

Please veto the KPB Assembly's redefinition of "Term Limits". This was another cynical attempt by the KPB Assembly to circumvent the will of the voters. Let the matter come before the people, as they are the ones who have consistently approved KPB term limits.

Sincerely,

J.R. Myers

From: joann odd
Sent: Wednesday, August 10, 2011 12:04 AM
To: Carey, Dave
Subject: Veto the assembly attack on term limits

Dear Mr Mayor,

It was with shock I read about the recent decision of the Assembly to leave the voters out of the discussion, when they "re-defined" the meaning of the word "TERM" in the term limit issue.

Their action taking away the right of the voters to participate in any discussion about this contentious issue, shows utter contempt for the residents of the Kenai Peninsula Borough.

Every time this issue appears on the agenda, many voters show up to reiterate their vote - four times already - in opposition. This sneaky,end-run approach was taken without voters knowing it would even be on the agenda.

Since Mr. Smith is the only member who will be affected by the current ordinance, he should have recused himself as a matter of conflict of interest, but he voted in favor of this change, which would benefit him by allowing him to run again. I think that is highly unethical.

If the Assembly is allowed to "re-define" words to get their goal done without the voters, it sets a bad precedent. Who knows what words will be "re-defined" in the future and how that will impact Borough residents?

Please use your VETO power, and stop this SIGNIFICANT CHANGE in the existing ordinance, done in this underhanded way to deny the voters a voice.

I understand that your VETO might be defeated by further Assembly action, but at least the VOTERS would have the opportunity and time, to object.

Thank you,
Joann Odd

From: gina whittemore
Sent: Tuesday, August 09, 2011 8:51 PM
To: Carey, Dave
Subject: please veto

Please veto the assembly's attempt to redefine term limits. I voted for term limits and I see this as a conflict of interest on their part. It looks like our representatives in the assembly are not willing to represent us on this issue. I hope you will recognize that borough citizens have already spoken for term limits (as previously defined) with their votes and veto this tomorrow. I know many more people who feel like I do, but were not aware that this was going on. It seems like it happened so fast. We need more time to get the word out.

Sincerely,
Gina Bogart

From: Ruby Denison
Sent: Tuesday, August 09, 2011 7:09 PM
To: Carey, Dave
Subject: veto ordinance 2011-23 Term Limits

Mr. Mayor:

The autocratic decision of the Assembly, is so egregious I am writing to urge you to veto this ordinance. Even though I think the enact date is after the 2-year deadline. This is too big a slap at the voters to ignore and is bad public service.

Further, I urge you to advise the Clerk and the Attorney to decline Bill Smith as a viable candidate for the Homer seat. He is clearly ineligible under the current ordinance.

Thanks for your consideration.

Ruby Denison
Ninilchik, AK

From: Jim Chambers
Sent: Tuesday, August 09, 2011 6:34 PM
To: Carey, Dave
Subject: Assembly Term Limits

I would encourage you to VETO the action of the Borough Assembly on August 2, 2011 regarding the removal of term limits from the public process, and/or voter approval.

Jim Chambers

From: db~DebbieBrown
Sent: Tuesday, August 09, 2011 5:32 PM
To: Carey, Dave
Subject: YOUR THOUGHTS???? IS KPB ASSEMBLY TENDING TO THEIR OWN SPECIAL INTEREST?
Importance: High

Hello Mayor Dave . . . I am the author of the language below in blue. I sent it out to a few folks this morning seeking their feedback. It is possible they will forward it to other email contacts. Thank you for reading a few of my reasonings. With this note I am asking you to please VETO the Assembly's recent action on 2 August regarding term limits. Please protect the intent of the voters who previously established term limit rules with their official votes. Is it true the two year time period clock is still ticking? If so, perhaps the Assembly rushed ahead too fast in their action on 2 August. Until the two years are complete, may the outcome of a previously certified proposition outcome be changed? With your VETO you will be safeguarding the people's public process. I assisted in gathering signatures for the initiative petition which led to the term limit question being placed on the ballot less than two years ago. Quite a lengthy legal process!
My best,
Debbie Brown

THE DEADLINE FOR MAYOR DAVE CAREY TO EXERCISE HIS VETO AUTHORITY IS WEDNESDAY, AUGUST 10. PLEASE CONSIDER CALLING MAYOR CAREY TODAY. 714-2150.

Regarding TERM LIMITS . . . for Borough Assembly members.

Do we have a "special interest" Assembly? It seems special interest views, regarding their own positions, may have been placed above the wishes of the people.

THE PRIMARY CONCERN . . .

Should the people of the Peninsula decide the details pertaining to how their elected leaders will serve them, OR the other way around? If KPB ordinance changes are proposed, the people should be informed of the proposed changes, provided appropriate time to become informed of proposed changes, and opportunity to evaluate and participate in the decision making process. This process by my evaluation is being circumvented by the Assembly.

In the first place the Assembly was uncomfortable with the outcome of previous election results regarding term limits for Assembly members. So an ordinance was created to put a new question to the voters on 4 October 2011. This ordinance was moving correctly through the public hearing process.

Then . . . at the August 2nd Assembly meeting the Borough Assembly made significant and substantial changes (after public testimony) to this ordinance related to Assembly member term limits and also decided the voters should not weigh in on the matter. Furthermore, the Assembly decided to immediately pass the amended ordinance without notifying the public of the changes nor allowing the newly worded ordinance to be calendared for new public hearings.

The Assembly decided KPB residents did not need to be aware of these important changes and also did not need voter approval.

By my evaluation this was an inappropriate action and the Borough Mayor should VETO the Assembly's decision.

If you agree, please join others in calling KPB Mayor Dave Carey today 714-2150 asking him to use his veto authority to protect the public process.

- The people should decide the length of their elected officials terms.
- and also the length of the interim required before an elected official should become eligible to run again.

My best,
Debbie Brown