



KENAI PENINSULA BOROUGH

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**DAVID R. CAREY
BOROUGH MAYOR**

MEMORANDUM

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

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

DATE: June 7, 2011

SUBJECT: Resolution 2011-065, Annexation petition, City of Kachemak

The borough is in receipt of a copy of a petition to the Local Boundary Commission for annexation to the City of Kachemak. Notice of the petition was posted by the borough clerk. The City of Kachemak will consider an ordinance approving the annexation at its June meeting. The annexation is voluntary by petition of 16 property owners outside the boundaries of the City of Kachemak. An ordinance by the city council is required for the annexation, but because the petition is by the property owners and registered voters in the area a popular vote is not required pursuant to AS 29.06.040(c). According to the petition the area subject to the annexation petition is 39.966 acres.

The reasons supporting annexation according to the petition are threefold as set forth below. Comments were solicited from the Planning Department, Finance Department, Office of Emergency Management, Kachemak Emergency Service Area, Road Service Area and the Borough Clerk in preparation of this report.

The first reason given for the annexation by the petitioners is that Kachemak Estates Subdivision, 2004 Addition, lies partially within and partially outside the city limits of Kachemak City. Morning Star Road is the only road into and out of the subdivision. Morning Star Road begins in Kachemak City at East End Road, and proceeds beyond the Kachemak City boundary, and terminates in the borough according to the petition. Kachemak Estates has a property owners association which collects dues to maintain and improve the condition and quality of the subdivision. The owners within this subdivision have the same conditions, covenants, and restrictions whether they are within or outside the city boundaries. The property owners state that it would facilitate local community projects if the entire subdivision were in the same municipal jurisdiction.

According to the planning department the annexation plan is consistent with the one acre lot requirement referenced in the City of Kachemak comprehensive plan and City Ordinance 09-03 which the city administers through a limited delegation of platting powers from the borough effective in 2009. Additionally, there are no plats pending that would be effected by the annexation. Further, the proposed reason of facilitating subdivision projects for the annexation is consistent with the City of Kachemak's comprehensive plan which provides in part that Kachemak has historically let landowners and subdivision covenants guide land usage.

The second reason given for the proposed annexation is that residents within Kachemak Estates Subdivision, 2004 addition, outside Kachemak City on Morning Star Road are not receiving road services from the borough for Morning Star Road although they are paying the road service area tax. Residents in the Kachemak Estates Subdivision who are within Kachemak City are able to receive city reimbursement for the private maintenance they perform on Morning Star Road within the city limits. If the properties within Kachemak Estates Subdivision within the borough accessed by Morning Star Road were annexed to Kachemak City then these properties would also be eligible for city reimbursement for private maintenance. The Kenai Peninsula Borough road service area (RSA) shows Morning Star Road is a non-certified road for maintenance and the RSA has not received an application for road maintenance. KPB 14.06.100(A)(1) requires a road be contiguous to a road system maintained by a governmental entity to be certified for borough maintenance. As stated in the petition Morning Star within the city limits of Kachemak is not maintained by the city. The road may also not meet other required borough standards which have not been evaluated because there has not been an application. While all residents of the borough receive the benefit of RSA services as road maintenance benefits everyone that drives on borough roads, the RSA is not providing any services for Morning Star Road.

The third reason for the annexation involves emergency services. Even though all emergency response vehicles use the same and only access road (the aforementioned Morning Star Road) they have different primary emergency responders for fire and medical emergencies. Kachemak City has a 1 mill property tax which funds a contract with the Homer Volunteer Fire Department (HVFD). The residents within Kachemak City receive emergency response from either HVFD (4.5 miles from the entrance to Morning Star Road) or from the Kachemak Community Center (under contract with the City of Homer) which is less than two miles from the Morning Star Road entrance. However, the property owners accessed by Morning Star Road outside the city limits are eligible for service from Kachemak Emergency Services which is 7.5 miles from the Morning Star Road Entrance. These borough residents are subject to a 2.25 mill property tax. Per the petition the residents would receive emergency services from a closer source for a lower mill levy if annexation were approved.

The truck that City of Kachemak provides for the Homer Volunteer Fire Department which cost and housing is provided in addition to the 1 mill levy is usually not a first response engine and does not always have a crew available. There is also a fire captain/EMT III that lives on the edge of the City of Kachemak who can respond to the area on Morning Star Road as part of a primary KESA response. However, being within five miles of the Kachemak Community

Center does provide those residents with an ISO benefit. Kenai Peninsula Borough's KESA is farther away from the residents on Morning Star than the City of Homer station. Since the City of Kachemak contracts with the City of Homer the first response truck Homer provides is in closer proximity than KESA to the residents of Morning Star Road.

Currently the boundary between assembly district 8 (Homer) and district 9 (South Peninsula) is the City of Kachemak city limits. Therefore, upon annexation the 40 acres would remain in assembly district 9. However, reapportionment of the borough's assembly districts is ongoing and it is possible as part of that process for the district 8 boundaries to include the newly annexed area. Even if reapportionment were not ongoing the assembly could entertain an ordinance to adjust the boundaries of districts 8 and 9. The small number of voters involved (8) should not adversely affect reapportionment. Additionally, that City of Kachemak may lie in two different assembly districts is not a basis for objecting to the reapportionment. The City of Kenai is also represented by more than one assembly district.

The following comparative taxation information is provided by the petition:

The proposed annexation would result in minor changes to the property tax revenues of both municipalities. At the end of calendar year 2010, the assessed real property value of the land and structures in the area proposed for annexation was \$2,585,700. The property tax mill rates of 4.50 mills for the Borough (\$11,636) and 2.30 mills for the South Hospital (\$5,947) would remain the same under the proposed annexation. However, the Borough would lose the road maintenance tax of 1.40 mills (\$3,620) and the Kachemak Emergency Services tax of 2.25 mills (\$5,818). Kachemak City would gain a 1.00 mill property tax (\$2,586) which would be used to help fund the Emergency Services contract with the City of Homer. The annexation would have minimal impact on Kachemak City's Community Revenue Sharing and Fish Taxes. The per capita payment amount in FY 11 was \$50.51 for Community Revenue Sharing and 8 cents for Fish Tax. So with the annexation, the Community Revenue Sharing impact would be about \$505 and for Fish Tax about 80 cents.

The planning department verified that the petitioner property owners all own property within the proposed annexation area. The borough clerk verified that eight petitioners are registered to vote within the area proposed for annexation.

The proposed effective date of the annexation is January 1, 2012, which would avoid any attempted claims for prorated taxes since January 1 is the annual assessment date.

Given the above reasons for annexation, and its voluntary nature, the Kenai Peninsula Borough administration does not object to the annexation of the 39.966 acres by the City of Kachemak.