

Introduced by: Pierce, Sprague  
Date: 09/07/10  
Hearing: 10/12/10 & 10/26/10  
Action: Failed to Introduce and Set for Public Hearings  
Vote: 4 Yes, 5 No, 0 Absent

**KENAI PENINSULA BOROUGH  
ORDINANCE 2010-35**

**AN ORDINANCE AUTHORIZING CENTRAL PENINSULA GENERAL HOSPITAL, INC. TO ENTER INTO A LETTER OF INTENT WITH LHP HOSPITAL GROUP INCORPORATED FOR THE PURPOSE OF NEGOTIATING A DEFINITIVE AGREEMENT, SUBJECT TO BOROUGH APPROVAL, TO FORM A WHOLE HOSPITAL JOINT VENTURE TO OWN AND OPERATE CENTRAL PENINSULA HOSPITAL AND ITS AFFILIATED MEDICAL FACILITIES AND OPERATIONS**

**WHEREAS**, upon approval of the service area voters in 1969, the Kenai Peninsula Borough (the “Borough”) established the Central Kenai Peninsula Hospital Service Area (“Service Area”), through which the borough exercises health care powers within the boundaries of the Service Area; and

**WHEREAS**, the Borough owns Central Peninsula Hospital (“CPH”), Heritage Place, Serenity House, and other medical facilities, and provides for their operation; and

**WHEREAS**, Central Peninsula General Hospital, Inc. (“CPGH, Inc.”) is an Alaska nonprofit corporation recognized as a tax exempt charitable organization under §501(c)(3) of the Internal Revenue Code; and

**WHEREAS**, the Borough has entered into a Lease and Operating Agreement with CPGH, Inc. for the lease and operation of CPH, the Kenai Health Center, Heritage Place, Serenity House and other medical facilities; and

**WHEREAS**, in the Lease and Operating Agreement, the Borough and CPGH, Inc. agreed that CPGH, Inc. shall operate and manage CPH and the other medical facilities for the benefit of the Borough, and further agreed that CPGH, Inc. may provide any other health service and operate any other health facility for the Service Area, to the extent that such services and/or operations of other health facilities are authorized or otherwise approved by the Borough; and

**WHEREAS**, in the Lease and Operating Agreement, solely in the context of expanding existing services, the Borough and CPGH, Inc. also agreed that CPGH, Inc. may provide for expanded or new Service Area health services at the medical facilities, in accordance with powers authorized for the Service Area pursuant to the KPB Code of Ordinances, as now enacted or as may be amended, including but not limited to joint ventures, or ownership participation or management participation in other health care services, and other business arrangements with other health

care providers and businesses, and further agreed that Service Area Board consideration and Assembly approval is required where capital improvements are expected to cost in excess of \$250,000; and

**WHEREAS,** in the Lease and Operating Agreement, the Borough and CPGH, Inc. also agreed that CPGH, Inc. shall endeavor to operate the medical facilities on a self-supporting basis; and

**WHEREAS,** at its meeting of August 26, 2010, the CPGH, Inc. Board of Directors (“Board”) adopted Resolution 2010-\_\_\_\_, which resolution is the basis for the facts stated below in this ordinance; and

**WHEREAS,** in March 2010, after two years of preliminary discussions, the Board initiated a deliberative process to identify an ownership and governance structure that would permit CPH to continue providing high quality healthcare and enhance health care services available in the service area on a self-supporting basis in the future; and

**WHEREAS,** CPGH Inc. initiated this process in light of changes in the health care marketplace, its acknowledgement that health care systems owned by governmental entities face particular challenges, and the knowledge that the number of such systems has decreased markedly in the past 20 years; and

**WHEREAS,** CPGH Inc. retained national experts to provide counsel on healthcare governance, law and finance, and worked with other experienced consultants to assist in identifying of alternative ownership and governance structures that would position CPH for success in the rapidly changing healthcare marketplace; and

**WHEREAS,** six ownership and governance options were identified and considered by the Board through in-depth internal and external parallel processes; and

**WHEREAS,** as part of these processes, CPGH Inc. received proposals from eight potential strategic partners; and

**WHEREAS,** the Board considered proposals from each of the potential strategic partners; and

**WHEREAS,** the Board also considered “non-market” options, including potential amendment of the current lease and operating agreement with the Kenai Peninsula Borough; and

**WHEREAS,** the Board undertook a review of each option and applied consistent evaluation criteria to each option in order to guide its discussions; and

**WHEREAS,** after deliberations, the Board determined that in its opinion the preferred structure for the future of CPH is a “whole hospital joint venture” transaction (“WHJV”) pursuant to which ownership and operation of CPH would be transferred to a joint venture entity owned in part by CPGH, Inc. and in part by a strategic partner; and

**WHEREAS,** the Board has stated that its determination is based on its belief that the WHJV presents an ownership structure and governance model that will best serve service area residents, bring meaningful health care resources to the community and position CPH for future success; and

**WHEREAS,** the WHJV model was selected based on the ability to maintain significant local control and to receive assistance in providing the financial resources necessary to expand services at CPH, which are anticipated to include a cancer treatment center, enhanced cardiology services and a medical office building; and

**WHEREAS,** the Board identified LHP Hospital Group, Inc. (LHP) as the preferred strategic partner in a WHJV based on LHP's experience in such transactions and the proposals made by LHP relative to a WHJV; and

**WHEREAS,** at its meeting on August 19, 2010, the CPGH Inc. Board passed a motion to recommend that

- (1) the Kenai Peninsula Borough Assembly authorize CPGH Inc. to enter into a non-binding letter of intent with LHP for the purpose of negotiating a definitive agreement for a WHJV transaction involving CPH and related health care facilities and operations presently overseen by CPGH Inc.; and,
- (2) the final definitive agreement outlining the terms and conditions of the WHJV transaction would be subject to approval via a vote of the Kenai Peninsula Borough Assembly, a vote of service area residents or a combination of such approvals, as the Assembly determines to be appropriate; and,
- (3) any proceeds from the WHJV be maintained in a community nonprofit organization that will have the ability to utilize the proceeds to promote health care in the service area; and

**WHEREAS,** as the governing body of the owner of the hospital and medical facilities, the borough assembly supports the continuation of this negotiation process provided that the borough administration is fully involved in negotiating the terms and conditions of any agreement involving any change to the governance or ownership of the medical facilities and the ownership and use of proceeds from any resulting proposed agreement;

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

**SECTION 1.** That CPGH, Inc. is hereby authorized to enter into a Letter of Intent with LHP, a copy of which is attached hereto as Attachment A and incorporated by reference, for the purpose of negotiating the terms and conditions of a proposed whole hospital joint venture involving CPH, the Medical Facilities and other healthcare facilities and operations presently operated by CPGH, Inc.

**SECTION 2.** That any definitive agreement negotiated between the borough administration, CPGH, Inc. and LHP concerning any change to the current governance or ownership of any medical facilities shall be subject to Service Area Board consideration and the final approval of the Borough, by the Kenai Peninsula Borough Assembly, by an election of qualified voters of the Central Kenai Peninsula Hospital Service Area, or by a combination of approvals as the Assembly determines appropriate.

**SECTION 3.** That this ordinance takes effect immediately upon its enactment.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS \*  
DAY OF \* 2010.**

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Pete Sprague, Assembly President

ATTEST:

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Johni Blankenship, Borough Clerk

Yes: McClure, Pierce, Smalley, Sprague  
No: Knopp, Fischer, Haggerty, Smith, Superman  
Absent: None