

Introduced by: Cooper, Ogle
Date: 04/04/17
Hearing: 05/02/17
Action: Enacted as Amended
Vote: 9 Yes, 0 No, 0 Absent

**KENAI PENINSULA BOROUGH
ORDINANCE 2017-06**

**AN ORDINANCE AMENDING KPB CHAPTER 22.40 TO ADD PROVISIONS
GOVERNING TELEPHONIC PARTICIPATION IN ASSEMBLY MEETINGS BY
ASSEMBLY MEMBERS**

WHEREAS, AS 44.62.310(a) authorizes telephonic attendance and participation in meetings of governmental bodies by its members; and

WHEREAS, KPB Chapter 22.40 governs assembly meetings and does not address telephonic participation; and

WHEREAS, assembly members have increasingly been attending regular assembly meetings by telephone; and

WHEREAS, in-person attendance at assembly meetings provides much better opportunities for improved communications with other assembly members, staff and members of the public in attendance; and

WHEREAS, the borough code should be amended to include guidelines governing telephonic attendance at assembly meetings by the assembly members;

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

SECTION 1. KPB 22.40.170 is hereby enacted to read as follows:

22.40.170. Telephonic participation in regular assembly meetings.

- A. KPB 22.40.170 through KPB 22.40.175 governs the telephonic participation of assembly members at all regular assembly meetings.
- B. The preferred procedure for assembly meetings is that all assembly members should be physically present at the designated time and location for each meeting. However, physical presence may be waived and any member(s) may participate in an assembly meeting by teleconference, subject to the procedures and limitations provided in this section through KPB 22.40.175.

- C. An assembly member participating by teleconference shall, while actually on the teleconference, be deemed to be present at the meeting for all purposes. The assembly member shall make every effort to participate in the entire meeting.
- D. If the assembly president participates telephonically, the assembly vice-president, or the president *pro tem*, in the assembly vice-president's absence, shall preside over and perform all other functions of the assembly president at the meeting.
- E. "Teleconferencing," for purposes of KPB 22.40.170 through .175, means a method used for remote participation by an assembly member for a meeting of the assembly which must enable the remote member, for the duration of the meeting, to clearly hear all assembly members, the mayor, the borough clerk, the attorney, and public testimony, and to be clearly heard by all assembly members, the mayor, the borough clerk, the attorney, and the public in attendance.

SECTION 2. KPB 22.40.173 is hereby enacted to read as follows:

22.40.173. Teleconference – Procedures.

- A. A assembly member who cannot be physically present for a regularly scheduled assembly meeting shall notify the borough clerk at least five days prior to the scheduled time for the meeting of his or her request to participate in the meeting by telephonic means of communication.
- B. At least three days prior to the scheduled time for the assembly meeting, the borough clerk shall notify the assembly of the person's request to participate by teleconference.
- C. At the commencement of the assembly meeting a telephonic connection will be established with the person or persons intending to participate telephonically. If the assembly member has attended at least three regular assembly meetings by telephone since the most recent November 1, after a telephonic connection is established the assembly president shall call for a vote of the assembly on whether the person(s) may or may not participate by telephone. Prior to the vote, the assembly members may make such inquiries as necessary to make a decision. Only the assembly members physically present may vote on the question. The assembly's determination is final and not subject to appeal. If a person participates in the meeting telephonically without a ruling from the assembly, it shall be deemed to be with the approval of such participation by the

assembly, and all actions taken by the assembly with the participation of all such persons are valid.

- D. Subsections A, B and C of this section do not apply to special meetings of the assembly. An assembly member who requests to participate telephonically in a special meeting of the assembly must notify the borough clerk before the time scheduled for the start of the meeting. The borough clerk will notify the assembly no later than the commencement of the meeting. After a telephonic connection is established the member shall be allowed to participate telephonically.
- E. The means used for a teleconference meeting of the assembly must enable each member appearing telephonically to clearly hear all other assembly members, the mayor, the borough clerk, the attorney, and public testimony at the meeting as well as be clearly heard by all other assembly members, the mayor, the borough clerk, the attorney, and members of the public in attendance.
- F. The borough clerk shall note in the minutes of the assembly meeting all members appearing telephonically.
- G. To the extent practicable, materials to be considered by the assembly shall be made available to those members attending by teleconference.

SECTION 3. KPB 22.40.175 is hereby enacted to read as follows:

22.40.175. Teleconference – Limitations.

- A. All assembly members should make all reasonable effort to be physically present for every meeting. Teleconference procedures may not be used as a regular means of attendance at meetings.
- B. Participation by teleconference may be denied whenever the physical presence of the individual is considered essential to effective participation in the meeting or to the proper conduct of the business to be addressed at the meeting.
- C. If teleconferencing is denied the assembly member will be listed as absent.
- D. Each assembly member may attend a maximum of three regular assembly meetings by teleconference during the 12-month period commencing November 1st each year.

- E. Each assembly member may attend additional teleconferences as a special exception if expressly approved for good cause in each instance by a vote of the assembly. Good cause may include, but is not limited to, absence required for extended medical care needed for the individual or a member of the individual's immediate family.
- F. No assembly member shall attend an executive session by telephonic means.

SECTION 4. Uncodified transitional provision: The provisions in Section 2 at KPB 22.40.173 C and Section 3 at KPB 22.40.175 paragraph D, referencing November 1, shall not apply to telephonic attendances occurring prior to enactment of this ordinance. The initial period for counting telephonic attendance at assembly meetings shall commence with the first assembly meeting after enactment of this ordinance and run until October 31, 2017.

SECTION 5. That this ordinance takes effect immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 2ND DAY OF MAY, 2017.

Kelly Cooper, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

Yes: Bagley, Carpenter, Dunne, Fischer, Hibbert, Ogle, Schaefer, Welles, Cooper
No: None
Absent: None