



KETCHIKAN GATEWAY BOROUGH

1900 First Avenue Ste 210 • KETCHIKAN, ALASKA 99901
• 907/228-66 25 • fax 907/228-66 84

www.kgbak.us

OFFICE OF THE BOROUGH MANAGER

MEMORANDUM

TO: MAYOR LANDIS AND BOROUGH ASSEMBLY
FROM: DEANNA THOMAS, ASSISTANT BOROUGH MANAGER
SUBJECT: OLD DAIRY ROAD SERVICE AREA PETITION
DATE: 6/20/2019

On May 14, 2019, a petition to establish a service area in the vicinity of Old Dairy Road was submitted to the Borough Clerk's Office, as is required by Borough Code. The petitioner paid the requisite \$300 filing fee.

In accordance with KGBC 14.05.040(b), the Borough Clerk reviewed the petition for number and validity of signatures and verified the dates of circulation. In a May 16, 2019 memorandum to the Borough Manager, the Clerk found that the signatures provided were consistent with the current property tax assessment roll for that area. She also found that the "number of signatures contained in the petition as submitted exceeds the requirement for signatures."

Borough Code 14.05.020 states that the petition shall contain the following:

- (a) A designation of the governmental service or services to be exercised within the service area;
- (b) A map and a legal description of the area to be included within the proposed service area prepared by a registered professional civil engineer licensed to practice in the State of Alaska, or a licensed land surveyor registered in the State of Alaska;
- (c) The signatures of at least 40 percent of the owners of real property within the proposed service area, as shown on the current property tax assessment roll; the petition shall be signed in ink or indelible pencil;
- (d) The necessary signatures on a petition shall be secured within 60 days from the date of the first circulation of the petition;

- (e) The petition shall have the required signatures, dates of signatures, and resident and mailing addresses of the signers; and the date of first circulation of the petition shall be stated upon the petition;
- (f) A proposed budget including financing methods;
- (f) Evidence that the petitioned for services cannot be provided by an existing service area, by annexation to a city, or by incorporation as a city;
- (g) Number and method of designation of service area board members;
- (h) Name and address of the person designated by the petitioners to whom correspondence from the borough is to be directed.

The initial review conducted by the Borough Clerk's Office concluded that the petitioners had met the requirements of KGBC 14.05.020 (c)-(e). The remainder of this report will address the additional requirements outlined above.

Powers to be Exercised

Property owners petitioned for the formation of a Ketchikan Gateway Borough service area to exercise "road powers for the necessary maintenance and improvement of existing and future subdivision roads serving all properties accessing South Tongass Highway from Old Dairy Road."

The petition states that the area proposed for the new service area "is not in an area that can be annexed into a city, or other existing service area."

Specifically, the petitioners state that the Homestead Service Area, which is adjacent to the proposed service area in the petition, is separated by an anadromous stream that crosses South Tongass Highway and parallels the property lines dividing the two areas. In addition, the petitioners contend that "there is no public access platted or otherwise developed connecting the two areas." The petitioners also state that the subdivision cannot be incorporated as a city.

During staff review of the petition, staff determined that the petitioners met the requirements of 14.05.020(a) and (f) for the following reasons:

- The petitioners outlined the proposed powers that the service area would exercise and that the powers are exercised by the Ketchikan Gateway Borough on a nonareawide basis.
- The proposed Old Dairy Road Service Area is not located within an existing road service area. The proposed service area is within the boundaries of the South Tongass Service Area, which exercises fire protection, EMS and water service powers.
- The proposed service area is located adjacent to the Homestead Service Area, which exercises road powers. However, a stream provides a natural barrier between the existing and proposed service areas. Further, there is no existing right-of-way available between the existing and proposed service areas.
- The proposed service area does not have the population to support incorporation as a city and is not adjacent to the City of Saxman or the City of Ketchikan and therefore is not likely to be annexed by either city.

Area to be Served

In accordance with 14.05.020(b), the petitioners provided a proposed legal description by an engineer registered by the State of Alaska.

At the request of the Planning Department, the legal description was changed to mirror the description of the proposed area on the recorded plat, which is:

“Those lands encompassed by the boundaries of Tract 2008 of the Homestead Forest Subdivision, recorded as Plat No. 2009-16, in the Ketchikan Recording District.”

The petitioners and engineer agreed to the legal description change, which did not change the boundaries of the proposed service area. Included in this report are two maps which depict the boundaries of the proposed service area and the parcels to be included. Attached as Exhibit A is the Ownership Map which depicts the area with the parcels and owners in its current status. Attached as Exhibit B is the Proposed Service Area Map which shows proposed additional lots and additional roads that are contemplated but not yet constructed. The proposed subdivision, as of the date of this report, has been submitted as a preliminary plat through the Borough Planning Department.

It should be noted that the boundary of the proposed service area is the same in both of the presented maps. In the event the subdivision is not approved, the boundary of the service area would remain the same.

Proposed Budget and Financing Methods

The petitioners provided a proposed annual budget of \$9,500. That includes \$7,000 for annual snow removal and \$2,500 for road maintenance. While the area to be served currently has only one road – Old Dairy Road – the budget includes snow removal and maintenance projections for the proposed additional roads on Milky Way and Udder Way. In the event that the subdivision is not approved, the budget would be less than included in this report.

The Borough also charges administrative fees to service areas. At the proposed budget, the administrative fee would be \$570. The administrative fees were not included in the proposed budget. As a result, the initial annual budget estimate should have been \$10,070. The petitioners agreed to the addition of the administrative fees in the estimated annual budget.

The petition states that depending on the extent of desired major road improvements, a multi-year business plan will be developed.

The Borough Public Works Director worked with the petitioners on their road maintenance and snow removal budget estimates. The numbers included in the petition reflect a seven-year average for snow plowing and road maintenance from a comparably-sized service area. Snow removal may range annually from \$2,000 to \$12,000 and general road maintenance averages between \$1,500 and \$3,500. Snow plowing costs could increase significantly during a heavy snow year.

The budget proposed by the petitioners does not include additional funding to build reserves. The Public Works Director has noted that most service areas have established reserves to respond to fluctuating road maintenance and snow plowing expenses on an annual basis. The department would recommend the service area work toward establishment of a reserve fund for those purposes.

The petition states that larger infrastructure improvements such as paving may be financed through a loan from the Borough similar to other service area agreements. A special assessment district is also contemplated to provide certain infrastructure to areas of the service area that want services that other members do not want developed.

The petition proposes to fund the cost of services through a mill levy. According to the 2019 Certified Assessment Roll, the 13 parcels within the proposed Old Dairy Road Service Area are valued at \$2,994,000.

Old Dairy Road Service Area						
The following property values are derived from the 2019 Certified Assessment Roll						
Select Area	PropUse	Parcel Number	Customer No	Location	PID	Assessed
70	RES 4+	702240001510	609667	OLD DAIRY RD 4032 SUITE 101, 102, 201, & 202	2240001510	404100
70	RES 4+	702240001520	609668	OLD DAIRY RD 4038 SUITE 101, 102, 201 & 202	2240001520	426600
70	COMM	702240001620	609675	OLD DAIRY RD 4031A/B/4027	2240001620	257600
70	RES 2-3	702240001610	609674	OLD DAIRY RD	2240001610	309700
70	RES 2-3	702240001600	609673	OLD DAIRY RD 4061 A/B/C	2240001600	171700
70	COMM	702240001530	609669	OLD DAIRY RD 4060	2240001530	108100
70	COMM VACANT	702240001590	609672	OLD DAIRY RD	2240001590	105800
70	COMM VACANT	702240001580	609671	OLD DAIRY RD	2240001580	90900
70	RES 4+	702240001560	605573	OLD DAIRY RD 4121/4125/4133/4159	2240001560	438000
70	COMM VACANT	702240001550	609670	OLD DAIRY RD 4106/4114	2240001550	106600
70	COMM INDUST	702240001540	605572	OLD DAIRY RD 4090	2240001540	131200
70	COMM VACANT	702240001450	609861	OLD DAIRY RD	2240001450	211300
70	COMM VACANT	702240001400	609666	OLD DAIRY RD	2240001400	232400
Total						2,994,000

Using the 2019 Certified Assessment Roll and the proposed budget with the requisite administrative fees, staff estimates that taxes would be levied at the rate of 3.4 mills to generate the \$10,070 to pay for anticipated road services.

Staff finds that the petitioners met the requirement of 14.05.020(f), which requires the submission of a proposed budget including financing methods.

Service Area Board Members

According to KGBC 14.10.010, the Borough Manager, subject to the paramount authority of the Assembly, shall manage service areas. The assembly shall, where it determines it is practical to do so, appoint a service area board of directors for a service area to make recommendations concerning budgets and services, according to Borough Code.

The petitioners are recommending that the service area be managed by a three-member service area board chosen from the service area property owners. KGBC

14.10.010 states that each service area board shall be comprised of five members unless otherwise provided for, so a three-member board would be allowed. The Homestead Service Area Board currently has three members.

KGBC 14.10.020 outlines the qualifications for service area board of directors:

(a) Except as provided in subsection (b) or (c) of this section, a qualified borough voter who, at the time of appointment, is a resident of, and has resided within, the service area for not less than 30 days is eligible to be a member of the board of directors.

(b) If the assembly determines by resolution that an insufficient number of persons reside within a service area, members of the board of directors may be appointed from qualified borough voters owning property but not residing within the service area. Preference shall be given, however, to persons residing within the service area.

(c) Where a service area routinely receives more than 10 percent of its funding from a tax exempt entity, the service area board of directors may include a nonvoting ex officio representative of that tax exempt entity. Such ex officio representative shall be in addition to the normal number of service area board members for the service area. Ex officio members shall not be counted for quorum purposes.

The petition states that the area is a general commercially zoned neighborhood and that the residents are "primarily transitory tenants and would not be consistently residing in the service area on a year to year basis." Allowing the property owners of the service area to manage the service area board "would provide consistent governance," according to the petitioners.

Staff has reviewed the petition and believes that the petitioners have provided the requisite number and method for designation of service area board members as is required in 14.05.020(g). However, the proposal to limit management of the service area board to property owners is not consistent with Borough Code, which expressly gives preference to residents of a service area, not property owners.

KGBC 14.10.010 outlines an option which could give the property owners the input envisioned in the petition but stops short of the formation of a service area board: "For service areas which do not have an appointed service area board, the manager may

form an advisory board to assist the manager in determining the level of service to be provided in the service area.”

Staff is recommending that staff manage the service area with use of a manager-appointed advisory board comprised of property owners for the following reasons:

- The total number of registered voters in the proposed service area 26, as of the date of this report. There are eight property owners in the proposed service area. Consistently filling three service area board seats from eight property owners would be difficult. Securing a quorum for meetings with only three members would also be problematic based on past experience with other service area boards.
- Based on the petitioners’ description of the population within the proposed Old Dairy Road Service Area as “transient” in nature, staff agrees that property owners would be the appropriate stakeholders to assist in the creation of a service area budget and development of an annual work plan for the service area. Borough Code does not specifically allow staff to create a board comprised solely of property owners.
- Service area boards are subject to the Open Meetings Act and require meeting notices and minutes. A staff advisory board would not be subject to those requirements and would be appointed by the Borough Manager instead of the Borough Mayor and Assembly. However, the advisory board could function as a service area board in every other way providing staff with stakeholder input on the budget and scope of work to be performed.

Unless otherwise directed, staff intends to include the advisory board management approach contemplated in KGBC 14.10.010 in a draft ordinance forming the Old Dairy Road Service Area.

Population:

In accordance with 14.05.050, a report on a proposed service area “shall state the total population and assessed valuation of the area proposed to be included within the service area. As stated above, the assessed valuation of the proposed area is: \$2,994,000 according to the 2019 Certified Assessment Roll.

There are currently 13 parcels in the proposed Old Dairy Road Service Area. As of the date of this report, there were 26 registered voters in the area. However, voter rolls do not accurately reflect population. As most of the residences are rental units, Assessment Department staff surveyed property owners in an attempt to develop a population

estimate with tenant totals. Two property owners did not participate in the survey. Of the properties excluded from the survey only one – a four-plex owned by Gary Lake – was developed for residential use. The remaining seven properties house a total of 20 residents according to the landlords.

Process for Formation of Service Area:

Per KGBC 14.05.050, within 45 days after a petition has been accepted as sufficient in form and content, the Borough Manager shall review the petition for the formation of a service area and provide a report to the Assembly as is being done herein.

The report must be presented to the Assembly at least 15 days prior to a public hearing on the necessity for formation of the service area. The petitioner's representative, Bret Hiatt, has indicated that he would be available the week of July 29th. As such, a public hearing has been scheduled at 5:30 p.m. on July 29 at Station 4 of the South Tongass Volunteer Fire Department, 5690 Roosevelt Drive.

Following the public hearing, staff will bring forward an ordinance for formation of the proposed service area at the Borough Assembly meeting of August 5. Should the ordinance be introduced at the August 5th meeting, a public hearing on the ordinance would be held at the Borough Assembly meeting of August 19. A draft of the ordinance will be available for review at the July 29th service area public hearing.

Should the Assembly adopt the ordinance forming the service area, the question would ultimately be decided by registered voters within the proposed service area during the October 1, 2019 Municipal Election. A majority of qualified voters within the boundaries of the proposed service area must approve the formation of the Old Dairy Road Service Area. The proposed effective date of the formation of the service area, subject to ratification of the voters, would be July 1, 2020.

Enclosures:

- Exhibit A – Ownership Map of Proposed Service Area
- Exhibit B – Proposed Subdivision Map of Proposed Service Area

EXHIBIT A
Ownership Map of Proposed Old Dairy Road Service Area

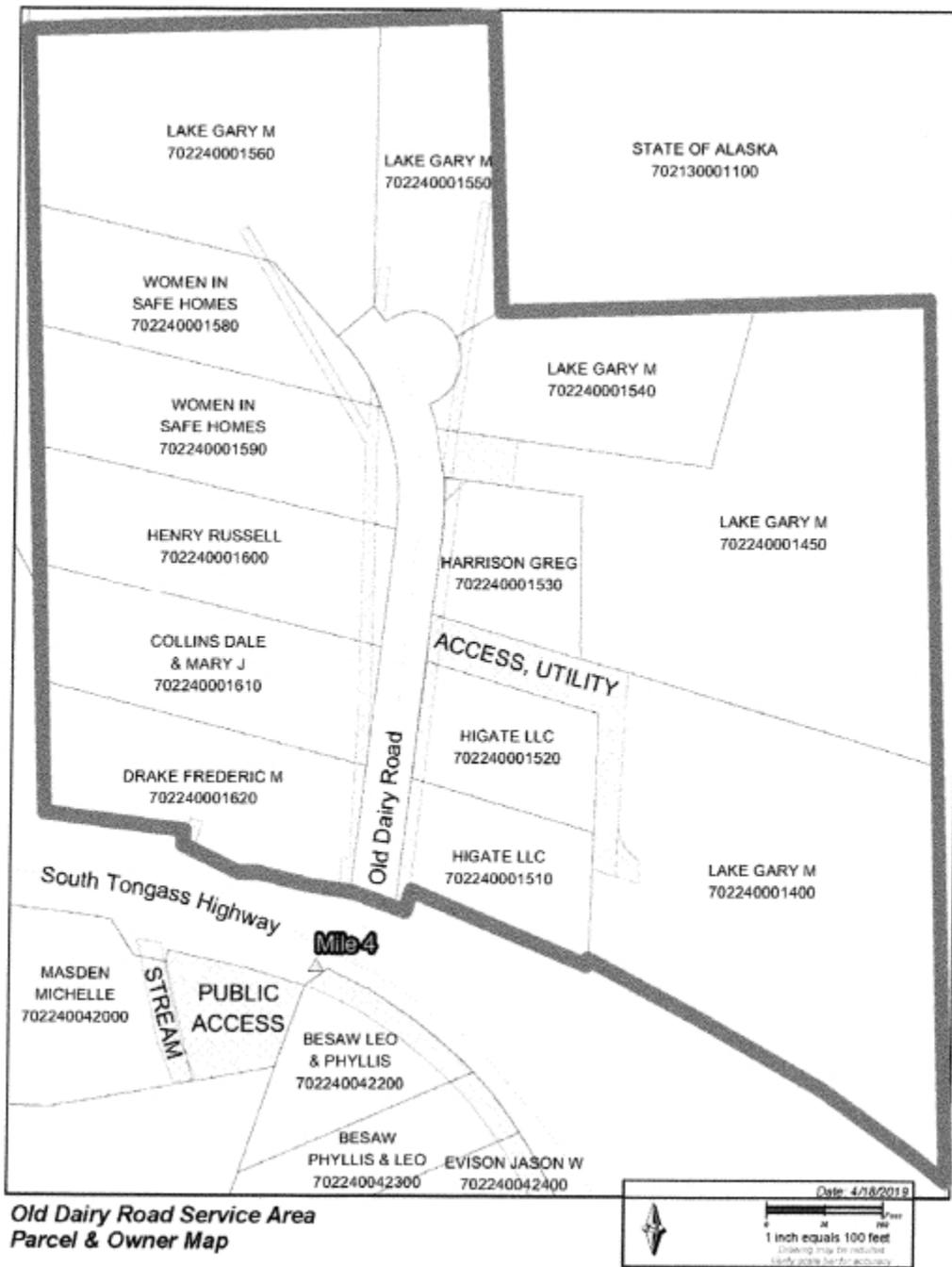


EXHIBIT B
Proposed Service Area Map by Registered Engineer Depicting Proposed
Subdivision and Creation of Additional Lots and Roads

