



KENAI PENINSULA BOROUGH

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**DAVID R. CAREY
BOROUGH MAYOR**

MEMORANDUM

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

THRU: David R. Carey, Mayor *DKC*

FROM: *mb* Max Best, Planning Director ✓
Doug Schoessler, Roads Director *DS*

DATE: May 26, 2011

SUBJECT: Proposed Substitute - Ordinance 2011-15, amending KPB Chapter 14.04 and KPB 17.10.030 to authorize the mayor to acquire easements for road improvement projects without assembly approval

A substitute ordinance is recommended for ordinance 2011-15. The reasons for these amendments are that KPB 14.04 was initially adopted as part of the long defunct State of Alaska local service roads and trails (LSRT) program wherein the legislature granted boroughs the direct power to construct local service roads and trails. In 2000 the borough adopted road construction powers through a popular vote of the people. These powers are codified at KPB 16.41.190. In order to avoid confusion between KPB 14.04.010 and KPB 16.41.190 it is recommended that KPB 14.04.010 be repealed. Additionally, the planning commission upon review of this ordinance raised questions regarding the interpretation of the appraisal process for right-of-way acquisitions set forth in KPB 14.04.020. A revision that clarifies that the borough will not compensate someone for right-of-way above the highest appraised value, where both the borough and property owner have obtained appraisals, is also made. The vast majority of easements being acquired for road service area projects are given voluntarily with de minimus compensation as the property owner typically is enjoying the benefit of the improved road. The assembly approves funding the project which includes funds for acquiring easements. If ever there were an unforeseen circumstance where the cost of an easement would exceed the project budget the assembly would have to approve the appropriation of additional funds.

Your consideration of this substitute is appreciated.