

Introduced by:	Mayor
Substitute Introduced:	06/07/11
O2011-15 (Mayor):	See Original for Prior History
Hearing:	06/08/11
Action:	Postponed Until 06/21/11
Date:	06/21/11
Action:	Enacted as Amended
Vote:	9 Yes, 0 No, 0 Absent

**KENAI PENINSULA BOROUGH
ORDINANCE 2011-15
(MAYOR) SUBSTITUTE**

**AN ORDINANCE AMENDING KPB CHAPTER 14.04, ROAD CONSTRUCTION AND
RIGHT-OF-WAY ACQUISITION, AND KPB 17.10.030, ACQUISITION OF LANDS
AND RESOURCES, TO AUTHORIZE THE MAYOR TO ACQUIRE EASEMENTS FOR
ROAD IMPROVEMENT MAINTENANCE PROJECTS WITHOUT ASSEMBLY
APPROVAL**

WHEREAS, KPB 17.10.030 – Acquisition of Land and Resources – General Policy, and KPB 17.10.040 – Acquisition of Lands and Resources – Resolution Contents, requires that the Planning Commission recommend and Assembly approve certain acquisitions of interests in land; and

WHEREAS, the Road Service Area (RSA) often needs to acquire public road easements, temporary construction easements and drainage easements in carrying out road improvement projects; and

WHEREAS, not only does the RSA need to acquire large numbers of easements but often the need arises quickly; and

WHEREAS, bringing every public road easement, temporary construction easement, drainage easement, slope easement or other form of easement to the Planning Commission and Assembly could be burdensome to both bodies and consume unwarranted administrative time; and

WHEREAS, the time frame required to bring easements for road improvement projects to the Planning Commission and Assembly is impractical for the RSA given the short construction season and for cases in which the need is discovered mid-project; and

WHEREAS, amending KPB Chapter 14.04 Road Construction and Right-of-way Acquisition and KPB 17.10.030 to allow the Mayor to approve acquisitions of easements for road improvement projects without assembly approval will allow road improvement projects to proceed more expeditiously and reduce the burden placed on the Planning Commission, Assembly and administration; and

WHEREAS, deleting KPB 14.04.010(A) will avoid confusion as it concerns limited road acquisition and construction powers granted in AS 29.35.210(9), and has been superseded by the voters' grant of authority to the borough to construct roads; and

WHEREAS, the Planning Commission at its regularly scheduled meetings of May 9, 2011, and May 23, 2011, considered this ordinance and recommended approval by unanimous vote;

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

SECTION 1. That the title of Chapter 14.04 shall be amended as follows:

CHAPTER 14.04. [ROAD CONSTRUCTION AND] RIGHT-OF-WAY ACQUISITION

SECTION 2. That KPB 14.04.010 is repealed.

SECTION 3. That KPB 14.04.020 shall be amended as follows:

14.04.020. Right-of-way acquisitions.

A. Right-of-way acquisition may be accomplished by the methods set forth in KPB 17.10.030 (A), (B) and (C).

B. In accord with KPB 17.10.030(B)(4) the Borough Mayor may acquire easements from property owners for the purpose of road service area improvement and maintenance projects not to exceed \$10,000.00 per easement without Assembly approval.

C. There is adopted a Borough policy governing right-of-way acquisitions, to be effective when the borough administration and the private property owner(s) affected cannot reach agreement on the right-of-way acquisition as follows:

[A.]1. The borough administration shall have an appraisal made of the property. Property owner(s) may have additional appraisals made for assembly consideration at their own expense. The appraisal shall be conducted in accordance with procedures established by the Alaska Department of Transportation for acquisition of right-of-way.

[B.]2. [THE APPRAISAL WITH THE HIGHEST VALUE SHALL BE SELECTED BY THE ASSEMBLY TO GOVERN] The highest price paid for the land needed for the right-of-way shall not exceed the highest appraised value, or the assembly may elect not to acquire the right-of-way when the matter is presented to it.

[C.]3. The Borough shall compensate the private owner(s) for the land needed for the right-of-way by payment of money, and not by any other method. Compensation for direct damage such as relocation of fences, septic systems, wells, etc., will also be paid.

SECTION 4. That KPB 17.10.030(B) is amended as follows:

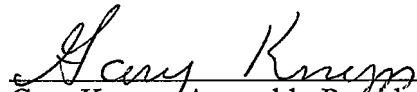
17.10.030. Acquisition of land and resources — General policy.

B. Lands or interest in lands and resources may be acquired without Assembly approval by the following methods:

1. Tax foreclosure;
2. Judgments entered by a court of competent jurisdiction as a result of legal action in which the Borough is a party;
3. Dedications pursuant to the platting authority of the Borough Planning commission[.];
4. Mayoral acceptance of easements from property owners for road service area improvement and maintenance projects as provided in KPB 14.04.020.

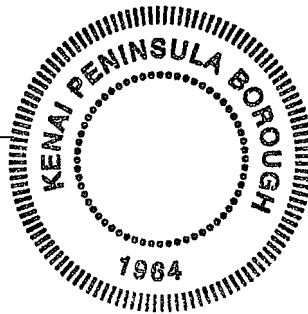
SECTION 5. That this ordinance takes effect immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 21ST DAY OF JUNE, 2011.


 Gary Knopp/Assembly President

ATTEST:


 Johni Blankenship, Borough Clerk



Yes: Haggerty, Johnson, McClure, Murphy, Pierce, Smalley, Smith, Tauriainen, Knopp
 No: None
 Absent: None