

Introduced by:	Mayor
Date:	09/04/12
Shortened Hearing:	09/18/12
Action:	Enacted as Amended
Vote:	7 Yes, 0 No, 2 Absent

**KENAI PENINSULA BOROUGH
ORDINANCE 2012-34**

**AN ORDINANCE AMENDING KPB CHAPTERS 2.28, 2.33, 2.34, 2.90 AND 5.04
RENAMING THE GENERAL SERVICES DEPARTMENT TO HUMAN RESOURCES
DEPARTMENT AND PLACING OVERSIGHT OF THE RISK MANAGEMENT
OFFICE IN THE FINANCE DEPARTMENT**

- WHEREAS,** KPB Chapter 2.33 of the Kenai Peninsula Borough Code establishes the General Services Department and sets forth the powers and duties of that department; and
- WHEREAS,** KPB 2.33.010 states that the executive officer of the department shall be the general services director; and
- WHEREAS,** KPB 2.33.020 establishes that the general services department shall, among other powers and duties, oversee the risk management office; and
- WHEREAS,** KPB 2.34.101 states “[t]here is in the general services department, the office of risk management;” and
- WHEREAS,** human resource laws and healthcare laws have changed significantly over the past few years and it is expected that there will be continuing changes in these areas; and
- WHEREAS,** it would be in the best interests of the borough to employ a human resources director whose primary functions are human resources and healthcare; and
- WHEREAS,** the general services director position will be vacant as of October 1, 2012; and
- WHEREAS,** under KPB 2.34.010 the office of risk management is administered by the risk manager and the risk management committee, which consists of the borough director of finance, the borough attorney, and the school district assistant superintendent charged with managing school district finances; and
- WHEREAS,** with the expertise of the positions of risk manager and those on the risk management committee, oversight by the general services department is no longer necessary; and
- WHEREAS,** it would be appropriate for the office of risk management to report to the director of finance and the risk management committee and be budgeted in the office of the finance department; and

WHEREAS, amendments to KPB chapters 2.28, 2.33, 2.34, 2.90 and 5.04 are necessary to reflect the change in the name of the department director from Director of General Services to Director of Human Resources and transfer risk management to the finance department;

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

SECTION 1. That KPB 2.28.020 be amended as follows:

2.28.020. – Director – Powers and duties.

The director of finance shall:

- A. Administer the financial department;
- B. Record in usable manner the amount of money the borough has received and expended, or expects to receive and expend and become obligated for, in a given period;
- C. Supply the type of information that will assist to formulate and implement programs of public service;
- D. Supply timely and sufficient information in a classified form that will assist the executive and legislative branches of the government and the people in general in appraising the adequacy of borough programs and the efficiency of their administration;
- E. Oversee the Office of Risk Management in accordance with KPB Chapter 2.34;
- [E] F. Perform such other duties as may be required by the borough mayor.

SECTION 2. That KPB Chapter 2.33 be amended as follows:

CHAPTER 2.33. HUMAN RESOURCES [GENERAL SERVICES] DEPARTMENT.

2.33.010. Established — Director appointment and authority.

There is established a human resources [GENERAL SERVICES] department in the executive branch of the Kenai Peninsula Borough. The principal executive of the department shall be the director of human resources [GENERAL SERVICES] whose position shall be appointed by, and under the supervision of, the mayor.

2.33.020. Department — Powers and duties.

The human resources [GENERAL SERVICES] department shall:

- A. Administer the office of human resources;
- B. Manage the mail/print room; and
- C. Administer custodial maintenance. [;
- D. OVERSEE THE RISK MANAGEMENT OFFICE IN ACCORDANCE WITH KPB CHAPTER 2.34.]

SECTION 3. That KPB 2.34.010 be amended as follows:

2.34.010. Risk Management Office established — Administrator.

There is in the finance [GENERAL SERVICE] department, the office of risk management. The office of risk management shall be administered by the risk manager and a risk management committee consisting of the Kenai Peninsula Borough attorney, the Kenai Peninsula Borough finance officer and an employee of the Kenai Peninsula Borough School District who has significant responsibility for managing school district finances and is appointed by the Superintendent. The members of the risk management committee may each designate a person to act as a committee member in the event of absence of that committee member. Meetings of the risk management committee shall be held on a regular monthly basis, and are exempt from the Open Meetings Act as now enacted or as may be hereinafter amended.

SECTION 4. That KPB 2.90.080(F) is amended as follows:

2.90.080. Initial screening.

...

- F. If the borough clerk or deputy clerk is the subject of the complaint, the complaint should be filed with the [GENERAL SERVICES] director of human resources who shall perform the responsibilities of the clerk for those complaints.

SECTION 5. That KPB 2.90.270 is amended as follows:

2.90.270. Declaration of a potential violation or conflict.

- A. An employee who is or may become involved in a matter that may result in a violation of a section in this chapter shall refrain from taking any official action relating to the matter until a determination is made under this section and immediately make a

full and complete disclosure, in writing, to the director of the employee's department.

- B. The director shall make a written determination whether an employee's involvement would be a violation of this chapter and shall provide a copy of the written determination to the employee and to the borough attorney and [GENERAL SERVICES] director of human resources. The director shall review the summaries of previous determinations as set forth in subsection (D) of this section and may request guidance from the borough attorney before making the written determination.
- C. An employee is not liable under this chapter for any action carried out in accordance with a determination made pursuant to this section if the employee fully disclosed all known relevant facts reasonably necessary to the determination.
- D. All written determinations shall be confidential and submitted to the borough attorney for review. The borough attorney shall make sufficient deletions to prevent disclosure of the employee's identity from the summary. An indexed copy of the summaries shall be maintained by the [GENERAL SERVICES] director of human resources for inspection by the public and employees.

SECTION 6. That KPB 2.90.280 is amended as follows:

2.90.280. Complaint procedure—Employee.

- A. Any person may file a complaint under this chapter concerning an employee with the [GENERAL SERVICES] director of human resources. The complaint may be filed with the mayor if the [GENERAL SERVICES] director of human resources is the subject of the complaint. A complaint shall specify the provisions of this chapter alleged to have been violated and facts alleged to constitute the violation.
- B. All complaints under this section shall be in writing and signed and sworn to under oath by the complainant in accord with KPB 2.90.050(A) and .060.
- C. All proceedings in respect of a complaint filed under this section are confidential and may not be disclosed to any person except as required for the proper processing and handling of the complaint.
- D. It is not a violation of this section for a person to contact or retain an attorney or to cooperate in a criminal investigation if one is proceeding.

- E. Upon request by the complainant, the name of the complainant shall be kept confidential and shall not be revealed unless for good cause shown.
- F. Upon receipt of the complaint, the [GENERAL SERVICES] director of human resources or mayor shall give the person under investigation notice of the substance of the complaint and an opportunity to present written information or oral testimony including the names of any individuals the person wishes to have interviewed.
- G. At the conclusion of an investigation, the [GENERAL SERVICES] director of human resources or mayor shall prepare a written report including:
 - 1. A summary of the investigation; and
 - 2. Recommendations for such administrative or legal action as deemed appropriate.
- H. The report shall be delivered to the person under investigation, the mayor, and the borough attorney.
- I. Action on complaints and investigations shall be completed within 90 days of the filing of the complaint unless good cause is shown for a 30-day extension.
- J. If an employee is found in violation of this chapter or found to have furnished false or misleading information during the investigation, the employee may be subject to reprimand, demotion, suspension, discharge, or otherwise subject to disciplinary action. This section does not prohibit the review of a disciplinary action in the manner prescribed by an applicable collective bargaining agreement or personnel statute or rule.
- K. All documents, records, testimony, final determination, and disciplinary action relating to the investigation of the complaint are confidential and shall not be released to the public, with the exception of the determination summaries required by KP.B 2.90.270.
- L. An employee found in violation of this chapter may appeal the determination within 30 days of receipt of the report referenced in subsection H to the superior court in accordance with the Alaska Rules of Appellate Procedure.

SECTION 7. That KPB 2.90.310(D) is amended as follows:

...

- D. Notwithstanding subsections (A) through (C) of this section, the [GENERAL SERVICES] director of human resources may publish summary opinions to inform borough personnel and the public about the interpretation of provisions of this chapter relating to an investigation and determination as long as such publication does not divulge any material facts which would lead to the identity of the person who was the subject of the complaint.

SECTION 8. That the following definitions in KPB 2.90.320 are amended as follows:

...

"Complainant" means a person filing a complaint with the clerk or [GENERAL SERVICES] director of human resources, as appropriate.

...

"Respondent" means the person against whom a complaint is filed with the clerk or [GENERAL SERVICES] director of human resources, as appropriate.

...

SECTION 9. That KPB 5.04.095(B) is amended as follows:

5.04.095. Level of budgetary control.

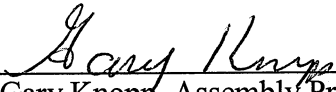
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- B. That departments for the general fund are defined as assembly, clerk (to include elections and record management), mayor, purchasing and contracting, [GENERAL SERVICES] human resources (to include [MANAGEMENT INFORMATION SERVICES, GEOGRAPHIC INFORMATION SYSTEMS,] print shop, and custodial), information technology, office of emergency management [(TO INCLUDE 911)], legal, finance, assessing, planning, river center, capital projects, [MAJOR PROJECTS ADMINISTRATION, SENIORS,] and non-departmental.

...

SECTION 10. That this ordinance takes effect immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS
18TH DAY OF SEPTEMBER, 2012.

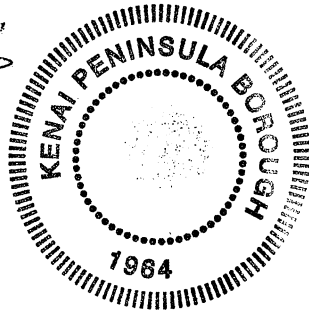


Gary Knopp, Assembly President

ATTEST:



Johmi Blankenship, MMC, Borough Clerk



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