



KENAI PENINSULA BOROUGH

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MIKE NAVARRE
BOROUGH MAYOR

MEMORANDUM

TO: Dale Bagley, Assembly President
Members, Kenai Peninsula Borough Assembly

FROM: Mike Navarre, Mayor *MN*
Dale Bagley, Assembly President *DLB*
Kelly Cooper, Assembly Member *K for K.C.*

DATE: May 7, 2015

SUBJECT: Ordinance 2015-13, An Ordinance Amending KPB Chapter 14.31, Regarding Road Improvement Assessment Districts

Over the past several years, the assessing department has seen an uptick in the number of special assessment projects initiated by residents wishing to bring improvements to their neighborhoods. Given this increase in interest, in 2014 the administration convened a group of stakeholders from various departments to review KPB chapters 5.35 (utility special assessment districts, or USADs) and 14.31 (road improvement assessment districts, or RIADs), in order to evaluate these processes and make recommendations to improve the way such projects are managed.

While it appears that the RIAD code has been significantly revised, in reality the proposed amendments simply provide a better organizational framework for the RIAD process. (Very few substantive changes have been proposed; these are described below.) The current version of KPB chapter 14.31 is not organized in a chronological manner and does not provide clear guidance on all steps of the process. The proposed amendment largely reorganizes the existing requirements in a more logical fashion and spells out the process for initiating and forming a RIAD in a more detailed manner. Furthermore, similar steps between the USAD and RIAD processes are often inconsistent under existing code – these amendments create consistency between the two chapters where appropriate.

Major updates to the code include:

- 1) The percentage of property owners required to move the project forward has been reduced from “more than 70 percent” to “at least 60 percent.” Under Alaska Statutes, the support of 50 percent of property owners is required to form a special assessment district. The Kenai Peninsula Borough has elected to exercise its ability under the statute to increase this threshold. Even if the threshold is reduced to “at least 60 percent,” the borough will still have the highest threshold in the state for special assessment district formation. The basis for this change is concern that a small minority of property owners can block a project from moving forward, even if most of their neighbors wish to

proceed. While 60 percent still allows a minority to impact the decision, the group involved in drafting these proposed amendments believes this is a more balanced approach.

- 2) The existing code allows for a perpetual deferral of the assessment costs for residents who are "economically disadvantaged." While this option was well-meaning, it has the possibility of creating a significant hardship for the property owners because interest continues to accrue even while the deferral is in place. This has the potential of creating a massive debt for future owners of a parcel impacted by the deferral. Likewise, while code requires that all costs of the improvement are assessed against the benefitted parcels, perpetual deferrals mean that such costs are never paid, to the detriment of the borough. The proposed amendment is intended to afford some relief to economically disadvantaged residents without creating a large lien on their property. Under the amendment, the principal amount of the assessment can be deferred, but accrued interest must be paid each year. A requirement for annual certification has been added to account for changes in circumstances.

Your consideration of this ordinance is appreciated. The assistant borough attorney and special assessment coordinator will make a presentation to the assembly at the policies and procedures committee meeting on May 19, 2015, and will be on hand to answer any questions.