

Biggs, Sherry

From: Edi Macik [ediland@ptialaska.net]
Sent: Tuesday, April 01, 2008 10:45 AM
To: Biggs, Sherry
Subject: 2008-05 Changes

Dear Ms. Biggs:

I hope it is not too late to substitute this letter for the one I sent yesterday. I read on the news on the Internet late last night about some changes EPA and COE are making to their wetlands regulations. In retrospect, it could lead some of my comments to seem ill considered.

Thanks,

Steve Macik

Ordinance 2008-05 (Substitute)

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Dear Millie:

I am sure that by now you have had an opportunity to read the March 20, 2008 memo sent to all the assembly members through Mayor Williams. It is interesting to note that the solution for less than adequate road maintenance on Category I and II roads due to lack of funding is for the developer to put more gravel on the roads. It states that one of the biggest problems encountered on borough roads is ponding water, which maintenance cannot fix. Part of the ponding problem is caused by the surface gravel being graded off the road and into the ditch, when RSA cannot now afford to make a second pass and bring the gravel out of the ditch and back onto the road. I don't see how requiring a six inch lift (which will then be swept into the ditch by maintenance, thus compounding the ditch problem) will benefit either the borough or the tax payers. The existing ordinance already requires a 2 foot ditch on each side of the road and specifically requires the water to drain to prevent ponding. The real questions are: is the RSA encountering drainage problems with roads built to standards or are these substandard roads accepted by the borough. Implementing a warranty period of two years and not accepting the road until it meets standards is the solution to ponding not building the road higher.

The comments regarding wetlands state that while state and federal agencies that require permitting have concerns regarding water flow, siltation, and habitat, my research shows that these agencies are concerned with the totality of the wetlands and any potential uses, and how the use will impact the target wetland and the surrounding areas.

14.06.100 (C) Road Construction Standards - The RSA has added a new provision requiring all construction in the wetlands to be engineered. This is an unnecessary duplication of other agencies responsibilities and unfairly targets all wetlands as equally sensitive and all areas as posing the same degree of construction complexity. For example: Does a road constructed on the edge of a defined wetland with 6" of peat over sand and clay require the same complex design and evaluation as building through open water and 3' of peat? A rational and fair system is for the RSA director to require a developer to provide proof of permits from other appropriate permitting agencies, as needed.

The US Army Corps of Engineers Regulatory Branch public notice of June 26, 1992 (Identification No. 92-9) states quite clearly that the Corps of Engineers is the final authority with respect to the delineation of wetland areas, as well as the determination of activities requiring DA permits.

The Corps of Engineers published a special public notice dated June 15, 2005 (SPN 2005-08) that goes into some detail regarding the evaluation and review of new subdivisions developed completely or partially in wetlands. This notice specifically addresses not only home sites, but also the roads associated with a subdivision development.

The Department of the Army, U.S. Army Engineer District, Alaska in their September 15, 2006 letter to applicants states that a Department of the Army permit is required for dredged or fill material prior to placing such into wetlands. They also state: "We fully recognize that all wetlands are not the same and should not be regulated the same way. In this regard, it is our goal to protect Alaska's aquatic resources in a manner that is fair, flexible, and effective".

This ordinance should be on integrity of construction in the wetlands and how to achieve the best results. That is why we need flexibility in the use of engineers, a warranty system without financial guarantees, and better inspections.

Sincerely,

Steve Macik

Blankenship, Johni

From: on behalf of Assembly/Clerk, Office

Subject: FW: Letters to the Editor: KPB Roads Ord 2008-05:

-----Original Message-----

From: dbear [mailto:jadebear@alaska.net]

Sent: Friday, April 04, 2008 10:40 AM

To: Assembly/Clerk, Office

Subject: Fw: Letters to the Editor: KPB Roads Ord 2008-05:

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Madam Clerk,

Please copy this to all Assembly members for me.

Thank you very much,

dbear.

----- Original Message -----

From: dbear

To: Letters to the Editor

Sent: Friday, April 04, 2008 10:34 AM

Subject: Letters to the Editor: KPB Roads Ord 2008-05:

More Road Ordinance Issues;

Per the front page article in the April 3rd edition of the Clarion, the most recent KPB Roads Ordinance, 2008-05, is intended to "ensure that new roads are built well and that the service area only accepts good roads for maintenance". Per the Roads Director, Gary Davis, the roads standards were last updated in 2002 but that further changes (Ord 2008-05) would improve road quality, enhance RSA efficiency, and reduce maintenance costs, among other things. Specifically, "adding six more inches of gravel to C-1 roads would increase their elevations and allow for better drainage, Davis said".

Davis told the Assembly that water-ponding is one of the biggest problems encountered that maintenance generally cannot fix. Davis goes on to state that a six inch cap of "finer-gravel" would be expected to reduce potholes, ruts, dust, surface softening and corrugation. Davis acknowledges that better KPB maintenance could reduce the need for increased gravel and better materials but noted that the RSA's maintenance practices are constrained by costs. Roads Dept. policies 99-02 & 99-03 currently mandate that "Maintenance on **all** roads is subject to available funding"! Davis further states that; "The RSA can generally only afford to pay its maintenance contractors to make two passes on a road when grading instead of four, which would improve gravel retention".

With the single exception of Davis' acknowledgement that the RSA cannot provide adequate maintenance, all of these statements are sweeping generalizations and not only illogical but irrational as no scientific or empirical evidence has been provided to the Assembly or the public to demonstrate their veracity. Which begs the question, if the RSA admits it cannot afford to properly maintain roads now, how are they going to afford to properly maintain the "new and improved" roads constructed per Ord 2008-05? Also of significant issue is the fact that all costs associated with this Ordinance will be rolled into the selling price of the property the road serves which will raise property taxes for all the surrounding area as well as the subdivision served by the road.

Here's a short list of known facts to consider before rushing to enact this Ordinance; 1) the RSA does not and

will not enforce seasonal load limit restrictions or speed limits on their roads, 2) under the proposed Ordinance the property owner/developer will have civil and financial liability for the condition of the road for at least one year after the road is completed, 3) enhancing maintenance standards and RSA staffing is a much more long-term cost effective solution to the problem than mandating construction of "super duper" roads that the Roads Director has publicly stated his Department cannot properly maintain.

As to the Director's comments regarding wetlands, well, he is horribly misinformed. There is a work-shop on this very issue at the River Center on April 11th, I suggest the Director and anyone else concerned with oversight of wetlands issues attend. I know there are members of the Assembly who are directly or have family members involved in subdivision development and/or road construction and I would bet they could provide an example or two of what is involved with development in wetlands.

David M. Bear
P.O. Box 39283
Ninilchik, AK 99639

Ph: 567-3344
jadebear@alaska.net

Biggs, Sherry

From: Edi Macik [ediland@ptialaska.net]
Sent: Monday, April 28, 2008 11:46 AM
To: Biggs, Sherry
Subject: Ordinance 2008-05 (Substitute)

Ms. Biggs,

Milli Martin asked me to send this to you for distribution to the Mayor and the Assembly.

Thanks,

Steve Macik

Ordinance 2008-05 (Substitute)

April 27, 2008

Dear Assembly Member,

I wanted to take a moment to update you on some research I've been doing since the last board meeting I attended. If in the event that the RSA Board is still determined to include language regarding wetlands, I have, toward the end of this email, provided an alternate paragraph to 14-06-100 (C). I was able to meet with Dave Casey (Corps of Engineers) for about two hours, and it is information from these discussions that I am offering different wording for 14-06-100 (C).

Since I was last in contact with you I have spent some time researching some of the road problems and talking to folks that are affected by the problems. One of the gentlemen I spoke with commented that he has observed the roads deteriorating over a number of years, and he feels that it is directly caused by the poor Borough road maintenance.

I went to various subdivisions and made some measurements. I found that the width of a single road could vary as much as 5 feet, and vary that much in several spots. It appears that the original surface of the road is in the ditch, and therefore, in the culverts. It doesn't take long for the fines to become compacted within the culvert, which will hinder the flow, and promote ponding.

At one of the subdivisions I visited, I spoke to a grader operator who told me that because of the lack of funding it was impossible to do a proper grading job on the roads they are supposed to be maintaining

One of the subdivisions I went to was Murwood Subdivision off of K-Beach Road, as I had not been down that road in a number of years. The graveled portion of that subdivision has deteriorated to the point that there are no longer ditches. I was unable to drive throughout the subdivision for fear of getting stuck.

In Mr. Davis's March 25, 2008 letter in reply to Mr. Tony Neal's March 19, 2008 letter regarding problems he is encountering on Hancock Drive in Homer, Mr. Davis states that: "The staff of the road service area, as well as our contractors, are fully aware of the quality of our road maintenance. We cannot provide the same level of service as the state or the city's, who have their own equipment and employees. The restriction placed upon us due to budget constraints does not allow us to grade the roads even as we wish we could. I acknowledge your point about the longer term benefit a proper and complete grading job, however, we have found the weather patterns and the amount of traffic, play a part in this "savings". We continue attempts to provide a better long-term grading job."

Mr. Davis's obvious frustration regarding lack of road maintenance funds is reiterated in other correspondence in reply to folks dissatisfied with their road maintenance.

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However, in the memo to Grace Merkes dated March 20, 2008, it is stated that: "The RSA can generally only afford to pay its maintenance contractors to make two passes on a road when grading instead of four, which would improve gravel retention.", and that "The RSA is increasing the requirements for gravel on Category I roads and requiring a better cap on Category I and II roads to match its known maintenance limitations and improve the travel experience for borough taxpayers".

It seems obvious that the RSA knows that they are part of the road deterioration problem, and can't do anything about it, no matter how much they would like to. It is also obvious that their best solution for the problem, due to lack of road maintenance funds, is to pass off the accountability and the expense of bringing the existing roads and new roads into compliance is through the taxpayer, one way or another.

Ordinance 2008-05 is requiring onerous financial guarantees and warranties to be placed on contractors of new roads with no guarantee that a road they build will be maintained by the Borough even if built to rigid new standards. Nor does the ordinance provide for RSA or Borough accountability if a road fails within a warranty period due to damage done by the RSA maintenance during an interim warranty period.

Regarding 14.06.100 (C) Road Construction Standards which would require roads constructed across wetlands, including peatlands, must be designed and certified by a licensed civil engineer preapproved by the RSA director, should be worded:

Roads constructed across wetlands, including peatlands, require proof of all appropriate permitting and design from Corps of Engineers, DNR, etc., before consideration by the RSA.

Any disagreement between the RSA director with the requirements of any other permitting agency would be presented to the RSA Board for review. Only after the RSA Board proves that there are flaws in the permitting and designs approved by any other agencies should an engineer be considered.

Again, thank you for all the work and time that you have put into this.

Sincerely,

Steve Macik
283-2056

Biggs, Sherry

From: Terri Cowart [tcowart@ptialaska.net]
Sent: Friday, May 02, 2008 8:22 AM
To: Biggs, Sherry
Subject: roads testimony

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Sorry Sheryl, I forgot to attach comments on previous e-mail. Terry

5-2-2008

To: Kenai Peninsula Borough Assembly Members
 From: Terry Cowart, Box 783, Kasilof, 283-0491

Re: 2008-05- Amending the road standards

Subject: Comments and testimony for the pending May 6th assembly meeting

The roads ordinance up for final consideration will neither upgrade nor lessen the maintenance issues facing the borough. It is a political solution consistently used by the administration for the last three major revisions in 1998, 2000, 2002 with the same consistent result. Many roads are in desperate need of repair, and the administration continues to avoid focusing on upgrading and repairing roads accepted prior to 1998, while maintaining only a minimal maintenance program. **I strongly urge the assembly to vote against this ordinance or amend and delete the economic impacts, which will triple the cost of new category one and two roads.**

This is the forth major revision to the roads ordinance and all have a common theme in the "whereas's"; lack of maintenance funds and a significant number of substandard roads accepted into the system. **The common solution is to focus on higher construction standards to offset the increased demand for better maintenance and decreasing funding.** Unfortunately, there is no ownership or acceptance of the problems by the administration in admitting the lack of oversight on new construction, a lack of aggressive warranty enforcement, and a bare bones maintenance effort. As a result, both well constructed and problematic roads will continue to deteriorate until maintenance standards and funding issues are resolved.

The proposed revisions with a financial guaranty will only add a warranty requirement of one year. This is terribly inadequate and not worth the bureaucratic effort as most road concerns will not show up for several years. A simpler solution is to mandate a 3 year warranty period with no financial guaranties. New construction guidelines will also increase construction costs up to 300 % by adding a topcoat of expensive 6" processed gravel and disallowing excavating and burial of organics in the right of way. Excavating and burial of organics along the side of the road will not affect the quality of the road, but will require add up to 24" of additional imported gravel.

No provisions in this ordinance will increase inspectors' oversight, or mandate higher maintenance standards to slow the erosion of well built or substandard roads. Instead, the administration continues to focus solely on new construction with the erroneous argument that Cadillac roads are cheaper to maintain than Chevrolet roads. Maintenance operators will just as easily grade 6" of expensive topcoat material into the ditch as the less expensive pit run material'. **We can expect the same justification for additional gravel and more bureaucracy to surface every few years until the funding and maintenance issues are resolved.**

A prime example illustrating the above points is the recent testimony by property owners in the Willowbrook subdivision, who purchased property on a road constructed, accepted and maintained by the RSA since 1998. The 1998 standards required this road to have 30" of good gravel, 2 foot ditches for good drainage, culverts, and no organics or excessive silts under the road, unless separated by a road fabric. An engineers report initiated by the RSA, who initially accepted the road as built to standards, now reveals, only one foot average of gravel remains and with a high silt content and poor drainage due to plugged culverts and full ditches. There is no fabric and organics exists under the road at some test locations. Notably, there is no commentary in the report describing why the road failed or comparing the roads present condition to the original standards. This roads' condition, should raise serious questions as to why the road was accepted into the maintenance system and whether current maintenance policies contributed to the roads' poor condition. This, in light of the inspectors report in 1998 which stated, **"This is a well built road and recommends acceptance into the maintenance program"**.

This road is only 10 years old and its condition underlines enforcement, oversight and maintenance inadequacies. The new ordinance provisions will not correct any of these problems as written, except to increase the cost of new construction. I strongly urge the assembly to consider voting down this ordinance to force the administration to focus on additional funding and a better strategy for maintaining our roads. Another alternative is to amend the ordinance to strengthen the warranty provision and delete those provisions, increase the cost of construction, but do nothing to resolve the real issues of funding and maintenance. Examples are note below.

Proposed amendments to 2008-05

REGARDING 14.06.(120)100. Road construction (s) standards.

AMENDMENT: (A.) Add a separate paragraph designation (D), for the "gravel road typical section" table and illustration.(B.) Delete the 6 inch, type 2 requirement from both the category one and two roads as stated in table A, for both the typical section and the alternate road typical section.

Rationale:

1. The typical section has a much greater significance, than just being included under a paragraph dealing with construction in the wetlands.
2. The table will be a common point of reference for all construction activities and should not be considered as applying to only a specific application.
3. Category 1 and 2 roads probably constitute the majority of roads in the borough as they are designed for up to 20 lots. Exact information is not available from the roads department. The additional 6" of screened material will have a significant economic impact on new construction.
4. The RSA maintenance budget will not be affected as the borough is not required to maintain the road with the same material, thus creating a double standard.
5. The existing ordinance calls for 18 inches of 4 inch minus material, which is typically found in most gravel pits and does not require screening, costing about \$5 per cubic yard. The proposed additional 6 inches of type 2 material is a 100 %, 2 inch minus material, which would require screening in most of the boroughs' gravel pits to eliminate rock larger than 2 inch. The additional cost in the Kasilof/Cohoe area, is estimated at \$10 to \$15 per cubic yard just for material and not including trucking. This is a 100 to 200% increase depending on material availability in each part of the borough.
6. Any weather related erosion or reduction in surface gravel caused by graders occurs on the top surface. The RSA has not provided any persuasive evidence or studies of deterioration **to roads developed under the current standards**, which would have been mitigated by the proposed change. There has been no "cost to benefit" analysis, which would suggest any substantial savings in maintenance cost as a result of imposing thousands of dollars in additional road costs.
7. Six inches of additional pit run material may just as easily meet the expendable top cap of the roads surface as the expensive 2 inch, except the existing 18 to 24 inches of material is already more than adequate. This is a classic example of the law of diminishing returns, where you compare the

significant additional cost against potential and undefined maintenance savings.

8. Some proponents have also expressed concern over the quantity of 4 inch size rock allowed under the present ordinance. It is a reasonable compromise to allow a small quantity of larger rock for category 1 and 2 roads serving less than 20 lots. Also, these roads were never intended to have the same construction qualities as category 3 and 4 roads, which experience higher traffic loads and speeds.
9. Many proponents of "additional gravel" as a solution, point to the generally poor condition of the boroughs roads to substantiate their case. This is a false premise, as most of the roads in poor condition were turned over to the borough by other agencies, grandfathered in by individuals, or accepted into the RSA system without adequate oversight or a warranty system. The quality or lack of maintenance due to funding restrictions could also be a significant factor.
10. An aggressively managed warranty system as proposed in 14.06.140 should first be implemented as a remedy prior to imposing a higher material standard.

REGARDING 14.06.(120)100. Road construction (s) standards, paragraph 6

AMENDMENT: Delete the last phrase in the paragraph: "No organic debris may be buried within the right of way." And add the phrase; "Organic material may be used as backfill, when a minimum of 4 feet of compactable material such as sands, silts or topsoil is placed over the organic material.

Rationale:

1. The RSA currently promotes and allows excavation and burial of organics in the ROW as does other boroughs. This method is also used by the roads department for upgrades and maintenance to reduce the cost of hauling in material. The new ordinance would exclude all burial of organics, which will have a severe impact on the economics of a road and some impact on borough maintenance.
2. When you remove organics in the road profile, it is usually 2-3 feet. Clean fill is then excavated from the ROW adjacent to the road to build up the base before placing the imported gravel. The hole is then filled with the organics with a 4 foot cap. Settlement is minimal due to Alaska temperatures. This is a common practice and if disallowed, the forced removal of organics out of the ROW and importing 1 to 2 feet of replacement fill could easily double the cost of a road.
3. A common problem is not requiring, as a condition of the permit, a minimum 3-4 feet of compactable fill over the organics, so utility and driveway installations do not encounter the debris. A simple solution, which was earlier embraced by the roads department, is to simply require all buried organics to be covered with 4 feet of compactable fill, with no backfill between the ditch lines.
4. This is a typical economical method, which is especially useful in the construction of category 1 and 2 roads used by small developers. Forbidding this procedure will force more summer burning and will be difficult to enforce in remote areas.
5. The elimination of this procedure and significant added costs invokes many of the same arguments used for eliminating the 6" cap. The costs are significant, but the RSA has provided no benefit analysis to support such a radical departure from existing policy.

REGARDING: 14.06.140 FINANCIAL GUARANTEE REQUIREMENTS

AMENDMENTS:

1. Delete all references to "security requirements" in the title and section. Leave all references to the warranty and warranty period
2. Ref. Para A: Delete the references to "maintenance and certification" in the first sentence and change the sentence to read: "Warranty. The applicant and holder of a ROW permit for construction of a road shall warrant and guarantee the road(s) were constructed consistent with RSA....."
3. Ref. Para A: Delete the one year requirement in the next to last sentence and replace with a 3 year requirement.
4. Ref. Para D: Delete the references to "road maintenance" and replace with the words "road construction"

5. **Ref. Para D: Delete the words: “or apply funds securing the warranty to pay for the work” in the last sentence and insert the words: “or apply penalties as defined in 14.40.270 and or place a lien on property owned by the applicant and contiguous to the ROW permitted construction.**

Rationale:

1. This section would implement a new system for requiring a warranty and guarantee for all categories of new road construction, but only when applying for borough maintenance. It's not in the boroughs interest to exclude other types of road construction from this section.
2. The existing ordinance already stipulates a temporary maintenance period of one year for the alternate design, and two years for category four roads. A financial guaranty is required for category four roads only. Under both categories, the borough can deny maintenance, if there are road construction deficiencies. **There are no provisions in the existing ordinance requiring a warranty for category one, two and three roads.**
3. The RSA has provided no summary or persuasive evidence of non-compliance in the history of requiring financial guarantees for category 4 roads. Since, no system is currently in place for category 1, 2 and 3 roads, there can be no record of non-compliance for these roads.
4. Instituting a warranty system across the board for all road construction in a ROW, regardless of the intent for maintenance, makes sense and should receive universal acceptance. The proposed one year maintenance period with temporary maintenance or private maintenance could easily be extended to two or even three years before certifying the road for maintenance or closing out a ROW permit. An existing precedent requiring a 2 year warranty period has already been in effect for category four roads. This will allow plenty of time for verifying the roads stability, for correcting deficiencies, and resolving any disputes with the applicants. Also, a two or three year temporary maintenance period almost certainly removes any possibility of a drawn out decertification process.
5. This ordinance could also reserve in the ROW permit conditions, the right to lien any parcels served by the new road and owned by the applicant, if deficiencies are not corrected. The borough can file a notice of right to lien at any time and include the language and conditions in the ROW permit with very little administrative effort.
6. **A financial guaranty requirement, requiring an expensive administrative effort and an additional financial burden on road builders is premature at this time. The borough should first focus on implementing a warranty system and the necessary inspection procedures for verifying and enforcing construction standards. A financial guaranty should only be implemented along with permit fees, after the RSA has clearly documented to the assembly, the RSA's inability to enforce ROW construction deficiencies. The public should be afforded the opportunity to comply with a simple warranty system, enforced by field inspections and correspondence before being forced into financial guarantees.**

Biggs, Sherry

From: Edi Macik [ediland@ptialaska.net]
Sent: Sunday, May 04, 2008 4:00 PM
To: merkes2@yahoo.com
Subject: Ordinance 2008-05 (substitute)

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May 3, 2008

Ordinance 2008-05

Dear Assembly President Merkes:

The following are some thoughts that need to be considered before Ordinance 2008-05 is enacted.

The RSA and the Board need to provide data that supports the need for changes in the Ordinance due to poorly designed roads, as opposed to good roads going bad due to poor maintenance practice, or shelve the whole thing until it is more fully researched.

There needs to be separation in language in the ordinance between PERMITTING, and application and certification for maintenance. Not all roads will be built with the intent to request road maintenance by the RSA. The permitting, inspection, and acceptance of a road in a ROW for platting needs to be done before application and certification for maintenance occur.

If a contractor is being required to provide a warranty or, in the future, financial guarantees to prove the quality of the road they are building, the RSA needs timely and consistent inspection of the ROW permit conditions.

Not all permits are for eventual application for maintenance. Therefore, all references to maintenance certifications must be removed when revising the borough standards. A maintenance application should be secondary to the ROW permit, as the ROW permit is to ensure that the road is built to standard, and the certification application for maintenance should deal only with requirements to qualify for maintenance.

Per the ROW section, the RSA has the option of requiring or not requiring work in a ROW to be up to standards. If a driveway permit, pioneer road or trail is perceived to be in a future road bed, it makes sense to require the footprint of the driveway to follow some of the borough standards, such as removing all organics. It is not an imposition or onerous to the applicant to warranty work jointly agreed to in the permit.

Before the RSA and the RSA Board impose costly ordinances aimed at the contractor, there must, at the same time, be guarantees that the RSA can and will maintain all roads they are charged with the maintenance of, which they cannot now do.

The tax payers of the borough will be far better served by their tax dollar when proper maintenance is guaranteed, rather than the hit or miss policy that is currently used due to lack of funding. The RSA needs to be funded to be able to do their jobs, rather than force the contractor to build expensive roads that the RSA can't properly maintain. When they are able to do the job fully and correctly, then will be the time to determine if roads are failing or not.

At this time there is no recourse to the tax payer when a road they use is damaged by bad maintenance practices by the RSA. To hide behind the excuse that there is inadequate funding, and than to offer the homeowner a permit to fix the road at their own expense is unconscionable.

If you have not taken the time to read my previous correspondence regarding research I have done on these issues, please take the time to do so.

Thank you for your time.

Steve Macik
283-2056

Biggs, Sherry

From: Terri Cowart [tcowart@ptialaska.net]
Sent: Sunday, May 04, 2008 8:03 AM
To: g merkes
Subject: final hearing on roads ordinance

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Mrs. Merkes,

Very few people understand the funding and manpower issues facing the roads department. All they know is they are paying taxes and many roads seem in disrepair. Consequently, they are willing to accept any legislation promising better roads. Four major revisions to the code in 10 years tells the real story. There are not sufficient inspections, there is no assessment or long term solutions, and our present maintenance strategy will not keep both new and existing roads up to standards. Instead of focusing on funding and improving maintenance strategies, the RSA continues to focus on new construction, by increasing the cost of construction, by adding gravel, additional engineering, and eliminating economical options such as excavation and burial of organics in the ROW(not under the road). **They are only responding to complaints and short term concerns, but nothing in this ordinance will change our present maintenance practices.** Changes made in 98, 2000, 2002 should be good for 20-30 years, not 6-10 years. If history is a guideline , the RSA will be back in to the assembly in 3 years for more gravel, restrictions and bureaucracy.The assembly needs to send a message to the administration to focus on internal procedures dealing with maintenance, inspections, oversight, warranty, and the necessary funding. **I urge the assembly to amend the new ordinance by increasing the warranty periods to 3 years, allowing organics to be buried in the ROW(not under the road) with 4 feet of cover, and deleting the new provisions calling for more expensive gravel and engineering.**

Please review my recommendations on this ordinance, which were sent through the clerks office last Friday, for more detailed rationale and the negative economic impacts of its passage. I have provided plenty of specific rationale and not just general statements of opposition. I firmly believe in producing quality roads, but, the RSA maintenance practices have to be upgraded both administratively and financially first to justify the more expensive roads. We have Chevrolet roads now, as a result of accepting roads without adequate oversight, a lack of funding and an admitted minimal maintenance program. If the roads are upgraded to Cadillac quality and accepted and maintained under the present maintenance standards, new roads will become old roads and this ordinance will be no more effective than the last three major revisions since 1998.

The RSA will be presenting a power point on Tues to support the new provisions in response to many criticisms of this ordinance. I am always in support of more information, both pros and cons. But, if the power point is consistent with the March 20 memo and the mayors' comments, we are going to see examples of problem roads, **but the borough will not be taking any ownership in the problem.** Every example of poor road conditions is the result of some "cause", but is the cause of deterioration, due to the lack of inspections and oversight, hidden defects or poor construction, or lack of maintenance? If the power point just focuses on end results, does not identify the causes, and does not take any ownership in the causes, then how can the assembly justify a corrective action, without fully understanding the circumstances?

If the following points are not addressed, please consider posing the following questions.

1. When considering all the roads constructed , inspected, and accepted into the system since 1998 and 3 major revisions, has the RSA done any summary analyses on failing roads to differentiate between poor initial construction or a lack of adequate maintenance?
2. Are the inspections adequate to ensure compliance? If not adequate, is this due to lack of resources and funding?
3. Is the current level of maintenance on new roads accepted in the system, sufficient to prevent the roads from deteriorating into the same condition as many of the current problem roads? Will the new, more expensive roads receive the same current level of maintenance, in next years budget?
4. Before considering a new requirement for a 1 year warranty and financial guaranty on category 1,2, and 3 roads, how effective has been our present 2 year requirement on category 4 roads in guarantying the roads were constructed to standards? Did the RSA ever have to resort to using the guaranty? How extensive is the history of non-compliance?
5. How can only a one year warranty period with a financial guaranty be effective, when road problems do not typically show up for

several years?

6. How can you have ponding and drainage problems with newly constructed roads, if the present ordinance already requires 2 foot deep ditches, and good drainage? Should not proper inspections and enforcement of the present code be sufficient?

7. How much does roads' present maintenance practices contribute to full ditches and plugged culverts?

8. Has the RSA done any cost analyses on the potential cost to road builders as a result of adding the additional 6" of processed gravel to category 1 and 2 roads, plus preventing excavation and burial of organics in the ROW, plus the additional engineering? Have you compared the builders cost to potential savings to the borough for maintenance and any type of cost-benefit analyses?

Thank you for your time, Terry Cowart

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Biggs, Sherry

From: Terri Cowart [tcowart@ptialaska.net]

Sent: Monday, May 05, 2008 7:44 PM

To: g merkes

Subject: Fw: final comments on roads ordinance-no compromises from RSA

Subject: final comments on roads ordinance-no compromises from RSA

Mrs Merkes, I cannot testify in Seward tomorrow, but if I did, I would make one more point on how this ordinance evolved. Please give it your consideration.

This is the forth revision to the ordinance in ten years. It is also not a compromising product developed out of the joint efforts of the public and the RSA board. Since May of 2007, there have been changes to administrative language, but there has been no compromises to any of the economic impacts. The RSA is still proposing more expensive gravel, more engineering, a mediocre warranty, burdensome financial guarantees, forbidding burial of organics in the ROW (between the property line and the road outside of the ROW) and virtual elimination of the alternative road design. Public input has been ignored in favor of building more expensive roads as a political solution to resolving road problems, rather than dealing with funding and maintenance standards issues. Nothing makes this more obvious than the problems facing the Willowbrook subdivision property owners, who reside on a road accepted and maintained by the RSA, but is a mess, or the \$100,000 given to the Watershed forum to do the RSA's job of cleaning out culverts.

There were many potential compromises, which would have made this ordinance more economically acceptable to the public.

(1.) The 2 inch top coat gravel could have been compromised to either, an additional 6 inch of 4 inch pit run or even 3 inch material, similar to both Soldotna or the MatSu borough roads.

(2.) Instead of forbidding burial of all organics, the RSA could have allowed burial with 3 or 4 foot of cover or just forbid burial of stumps and slash. Burying topsoil's, clays, grass and similar overburden poses no threat to the ROW and has no impact on maintenance.

(3.) The requirement for engineering across wetlands could easily have been modified to be required only in critical areas not meeting normal construction standards. Not all wetlands are critical habitat, wet or difficult construction projects.

The absolute worst part of this ordinance is the one year warranty provision. If your going to demand Cadillac roads, what's wrong with a 3 year warranty instead of one year. If we are going to get tough on new construction, lets be consistent with the warranty. The hypocrisy, however, is no corresponding increase in funding for maintenance, no changes in the inspection program and no changes in the maintenance standards to back up the new ordinance.

This ordinance needs to either be voted down or amended for a reality check. Otherwise, we will be seeing revision number five in two or 3 years. Terry Cowart