

Introduced by: Mayor
Date: 08/03/05
Action: Adopted as Amended
Vote: 7 Yes, 0 No, 2 Absent

**KENAI PENINSULA BOROUGH
RESOLUTION 2005 -075**

**A RESOLUTION DECERTIFYING A PORTION OF SKILAK STREET
IN THE CENTRAL REGION, UNIT 2**

- WHEREAS**, Skilak Street, located in Central Region, Unit 2, is on the Kenai Peninsula Borough Road Service Area maintenance system; and
- WHEREAS** the Road Service Area (RSA) records indicate that only 500 feet of the platted Skilak Street was “grandfathered” into the road maintenance system; and
- WHEREAS**, a constructed “road” extended the platted section of Skilak Street approximately 650 feet north through an existing trailer park, thus providing a “loop” road back to the Sterling Highway; and
- WHEREAS**, the trailer park was abandoned in the mid 1970s, with the private access road remaining; and
- WHEREAS**, the historical use of this 650 feet of the non-platted section of Skilak Street became an easy access “loop” road for the road maintenance equipment and has been maintained since the inception of the Road Service Area; and
- WHEREAS**, recent residential construction activity has questioned the viability and safety of road maintenance on this non-platted private property; and
- WHEREAS**, KPB 14.06.070 provides for the decertification of roads certified for borough maintenance upon meeting standards within that section and recommendation by the RSA board to the assembly; and
- WHEREAS**, the road Skilak Street was posted with a decertification notice required by KPB 14.06.070; and
- WHEREAS**, in accordance with KPB 14.06.070(B)(2) the notice of RSA board hearing on the decertification was advertised on May 16, 23, 30 and June 6, 2005, in the Peninsula Clarion; and
- WHEREAS**, in accordance with KPB 14.06.070(B)(6) the notice of assembly hearing on the decertification was advertised on July 22nd and 26th, 2005, in the Peninsula Clarion; and

WHEREAS, written objection has been received to the decertification, and the RSA director has explored options to bring the road to borough standards according to KPB 14.06.070 (B)(3) as reflected in the written report of the roads director dated June 14, 2005; and

WHEREAS, the RSA director's efforts to identify feasible alternatives to decertification has resulted in a finding that no feasible option exists to bring Skilak Street to borough standards due to the inability to obtain required rights-of-way; and

WHEREAS, public hearings on the proposed decertification were held on June 14 and July 5, 2005; and

WHEREAS, on July 5, 2005, the road service ("RSA") board adopted RSA resolution 2005-06 recommending the Kenai Peninsula Borough assembly decertify RSA maintenance of 650 feet of non-platted Skilak Street in the Central Region, Unit 2;

NOW THEREFORE, BE IT RESOLVED BY THE ROAD SERVICE AREA BOARD:

SECTION 1. That the assembly adopts the findings set forth in the RSA Resolution 2005-06 regarding 650 feet of non-platted Skilak Street in the Central Region, Unit 2, set out below, and finds the RSA board's findings in compliance with the criteria set forth in KPB 14.06.070.

SECTION 2. That 650 feet of undedicated Skilak Street meets the following decertification standards:

1. Dwellings - All dwellings accessed by the undedicated portion of Skilak Street have other borough maintained access.
2. Safety – The lack of a dedicated right-of-way creates a travel way through private property. A new residence has been constructed on adjoining lot A-2. The existing maintenance invites the traveling public to utilize this road, creating a safety concern for children and animals.
3. Road Condition – The road is not constructed to standards, and was never constructed as a public roadway. The area in question was constructed as a trailer court driveway. Without dedicated right-of-way the RSA will not be able to upgrade this road to RSA standards. There are annual spring thaw problems.
4. Drainage Problems – The terrain is relatively flat on the northwest side, and has a slight dip on the southeast side. The recently constructed residence is on the southeast side, so most spring runoff and rainfall drainage will settle on the front yard of this residence.
5. Access – All parcels of land associated with this decertification proposal have legal right-of-way access. This process will not affect this legal access.
6. Snow Storage – The roadway does not have any dedicated public right-of-way, therefore snow is being stored on private property.
7. Funding – There will not be substantial cost saved by this decertification.

8. Prior Maintenance – Records indicate this road has received maintenance since at least 1986. RSA records also indicate that only the 500 feet of Skilak Street that is platted was grandfathered into the RSA maintenance system. The fact that a driveway for a previously situated trailer court adjoined this platted road made an inviting “through” street. This situation essentially converted this section of roadway to a “prescriptive” easement solely by the RSA’s contractor taking advantage of the “loop” character of the area, although a court ruling would be required to establish a prescriptive easement.

SECTION 3. That Skilak Street is eligible for decertification based on KPB 14.06.070(C) and (D).

SECTION 4. That Skilak Street is hereby decertified for maintenance by the borough.

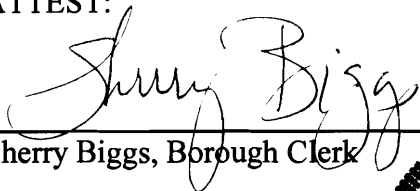
SECTION 5. That this resolution takes effect immediately upon its adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 3RD DAY OF AUGUST, 2005.



Gary Superman, Assembly President

ATTEST:



Sherry Biggs, Borough Clerk

