

Introduced by: Long
Date: October 30, 1979
Hearing:
Vote: Not set for hearing 10-30
Action:

KENAI PENINSULA BOROUGH
ORDINANCE 79- 67

PROVIDING FOR THE DISPOSAL OF BOROUGH SELECTED LANDS BY LOTTERY SALE.

WHEREAS, the Borough has obtained title under the Borough Section Act to Lands suitable for conveyance to private parties; and

WHEREAS, Alaska Statute 29.48.010(9) provides authority to the Borough to dispose of Borough land; and

WHEREAS, Borough lands are a valuable Borough asset; and

WHEREAS, the Assembly recognizes that taxpayers of the Borough should receive the benefits of their contribution to the Borough; and

WHEREAS, the Assembly recognizes the need to expand the economic base of the Borough, to instill a greater sense of community within the Borough, and to place land in the private sector; and

WHEREAS, the Assembly, in recognition of its responsibility, deems it appropriate to allow first right of purchase to Borough residents without absolutely excluding other individuals from the participation in this land lottery and sale.

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

Section 1. That the Mayor is authorized to establish procedures to provide long-term financing for all land sales.

Section 2. That the Borough lands set out in the "Listing of Public Sale Lands", dated September 12, 1979, and incorporated into this ordinance, are classified as sale lands to be sold in accordance with this ordinance at public sale.

Section 3. That the Mayor shall dispose of the public sale lands listed in Section 2 as follows:

- (1) The Borough shall dispose of only those parcels to which it has patent.
- (2) The Borough shall not dispose of any lands with proven historic Village sites and burial grounds.
- (3) The Borough will not be liable for the surveying and platting of any properties disposed of to the general public, or for the provision of access to the parcels.
- (4) That all sales will be made by real estate contract

to those persons selected by lottery, at the fair market value of the parcel as determined by the Borough Assessor. The Borough shall make no representation as to the actual market value of the parcel at the time of the sale. All parcels shall be valued on the same basis of the estimated acreage of the parcel as shown by the Borough Assessor's records and multiplied by the appropriate "per-acre" valuation set by the Assessor. If a registered land surveyor determines within nine (9) months from the date of sale that the parcel contains less than ninety percent (90%) of the acreage indicated by the Borough Assessor's records, then the purchase price shall be reduced proportionately.

- (5) That prior to conveyance of the parcel, the Borough will reserve rights and easements necessary to provide for public right-of-way and access to adjacent and interior parcels of land as may be authorized by the assembly.
- (6) That the selected purchaser of any parcel must deposit with the Borough Finance Director a downpayment equal to ten percent (10%) of the total purchase price of the parcel. The principal balance shall be paid in ten (10) equal annual installments on all balances up to TWENTY-FIVE AND NO/100THS DOLLARS (\$25,000.00) inclusive, in fifteen (15) equal annual installments on balances of TWENTY-FIVE THOUSAND AND NO/100THS (\$25,000.00) to FORTY THOUSAND AND NO/100THS DOLLARS (\$40,000.00) inclusive, and in twenty (20) equal annual installments on balances of FORTY THOUSAND AND NO/100THS DOLLARS (\$40,000.00) or more. Simple interest at the annual rate of nine percent (9%) will accrue upon the unpaid balance and shall be paid annually.
- (7) That payment on principal and upon accrued interest shall become due and payable on September 1 of each year, and shall become delinquent after October 1. There shall be a five percent (5%) reduction allowed in the sale price for each full year of Borough residence up to a maximum credit of fifty percent (50%).
- (8) That upon final payment of all sums due under the purchase, a warranty deed will be conveyed by the Borough to the purchaser. No right shall vest in the purchase until satisfactory completion of any contract for purchase. In the event of a default for non-payment or other reason, the interest of the purchaser shall be forfeited.

- (9) All parcels are sold "as is" and the purchaser shall be responsible for visiting the parcel and for ascertaining the condition of the site.
- (10) The Planning Commission shall not permit the subdivision of any sale land upon which there exists an unpaid principal balance until suitable arrangements have been made to assure payment in full of the balance due to the Borough.

Section 4. That a lottery for the disposal of public land shall be conducted in the following manner:

- (1) That participants in a lottery must file an application with the Borough Finance Director, not less than ten (10) days prior to the date of the lottery. A TEN AND NO/100THS DOLLARS (\$10.00) non-refundable deposit must accompany each application.
- (2) That advance notice of the filing period and the rules and regulations of the lottery and sale will be given. The form of notice required will take into account the fact that the Borough contains many remote locations. Notice, through newspaper, television and radio, as well as posting notice in post offices and other community centers will be provided. Notice will be published weekly, starting two weeks before the filing period begins and continuing on a weekly basis until the closing of the filing period.
- (3) That this lottery sale will be conducted in such a manner as to not absolutely exclude any individual from participating, but allow first opportunity of purchase to Borough residents.

All applications will be received from persons at least eighteen (18) years of age and who are citizens of the United States.

The Finance Director will establish two lists containing the applicants who qualify for each list.

To qualify for the "A" list, the applicant must be a resident of the Borough. A "B" list will be established for all other applicants.

Residency in the Borough will be determined by a statement of the applicant that he has resided in the Borough for thirty (30) days and that he intends to make his permanent home here. This

statement will be placed on each application and the applicant must sign the statement.

- (4) Each applicant may file as many applications as he wishes, but only one application will be accepted from each applicant on any given parcel of land.
- (5) The application form should provide a statement of residency as described in Subsection(3) of this Section. An applicant claiming residency in the Borough will be required to sign the statement.

Applications may be filed by Borough residents temporarily removed from the Borough and serving in the Armed Services, the United States Peace Corp, Vista or attending classes at a university or college. Such an applicant must sign the statement asserting his Borough residency and may mail his application to the appropriate Borough Office or have a family member or other representative file the application.

- (6) The period open for filing applications should be of sufficient length of time to reflect the geographic constraints on travel and mail service in the Borough.

Applications may be filed in person, by personal representative, or by mail. An applicant may not act as agent for a corporation or other business associations organized for profit. Applications may be filed until 5 P.M. of the day of closing the filing period.

- (7) On the day scheduled for the lottery, each parcel offered will be individually announced for drawing. The first drawing, for each announced parcel, will be among those applicants who have qualified and have had their application placed on the "A" list. If no applicant has qualified for the "A" list for the announced parcel, then a drawing will be held among those applicants who have had their applications placed on the "B" list. A drawing from those applications on the "B" list will occur only if there were no qualified applications for the announced parcel on the "A" list.
- (8) There will be three applications drawn for each parcel. The first application drawn will be the primary applicant. The second and third applications drawn will be the first and second alternates respectively. If there is a need for a drawing

from among those applications on the "B" list, three applications will be drawn, constituting the primary applicant and the first and second alternate applicants.

Section 5. Only one parcel may be sold to any given applicant.

Section 6. Within ten (10) days of the day of the lottery the primary applicants must notify the Finance Officer in writing that they intend to purchase the parcel for which their application was drawn. If the applicant's application was drawn first for two or more parcels, he must elect which, if any, of the parcels he wishes to purchase within this ten (10) day period.

If the primary applicant does not notify the Borough Office within ten (10) days or he selects one parcel over another, the first alternate will be given the opportunity of purchase. If the first alternate chooses not to purchase the parcel the second alternate may purchase it. The alternates may be given an additional ten (10) days to specify in writing their intent to purchase. If no intent to purchase is declared for a given parcel, that parcel will be retained by the Borough and offered for lottery and sale at the next Borough land disposal.

All those applicants who have expressed their intent to purchase must appear in person or by personal representative at the appropriate Borough Office within ten (10) days after their express intent to purchase the parcel has been filed.

When the applicant appears he will pay the required downpayment and sign the documents necessary for the financing of the parcel. If the applicant claimed Borough residency to have his application qualified for the "A" list, he will submit proof of residency through sworn affidavit or through information contained in the records of the Borough, Motor Vehicle Department, or other governmental agencies that support the applicant's claim to residency.

If the applicant claims preference discounts as provided in Section 3(2), he will again submit proof of the number of years of his residency. Proof may be provided as specified in the preceeding paragraph.

Section 7. The conditions recommended by the Planning Commission for the disposal of certain parcels of "sale land", as set forth in the document "Planning Commission Recommendations", dated August 27, 1979, are incorporated into this ordinance. These conditions, together with such other conditions of sale as the Mayor may deem necessary to protect the interests of the Borough, shall be incorporated into the contract for sale and included in the deed for the affected parcel if necessary.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH
ON THIS _____ DAY OF _____, 1979.
