

Introduced by: Dimmick
Date: March 1, 1983
Hearing: April 5, 1983
Vote: Failed to be set for Hear.
Action:

KENAI PENINSULA BOROUGH

ORDINANCE 83-18

PROVIDING FOR THE DISPOSITION OF BOROUGH SELECTED LANDS TO THE GENERAL PUBLIC BY SEALED BID LAND SALE

WHEREAS, the Borough has obtained title to lands pursuant to the municipal selection process and has adopted a comprehensive land disposal ordinance; and

WHEREAS, the Assembly, in conjunction with the Administration and the Borough Planning Commission, has identified approximately 7,000 acres of land already patented to the Borough, together with necessary rights-of-way and desirable terms and conditions of sale; and

WHEREAS, the Assembly desires to expedite the disposal of this land to the general public; and

WHEREAS, the Planning Commission held a public hearing on _____; and

WHEREAS, approximately _____ acres of land located in North Kenai are currently in the planning stages for development, and a contour map has been completed for planning purposes; and

WHEREAS, the land will be subdivided and surveyed under the plan set forth in this ordinance to include aerial photography and topographic contour maps and surveyed road easements or rights-of-way;

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

Section 1. A. That the designated subdivided lands shown on Attachment A of this ordinance are classified as "Sale Lands". These sale lands shall be disposed of to members of the general public at a sealed bid auction to be held on the date designated by the Mayor. The reservations of access and the proposed terms and conditions of sale, recommended by the Planning Commission, are incorporated by reference into this ordinance and shall govern the disposal of each parcel of land.

B. That the lands not designated sale lands are classified "Public Use Lands and are reserved for public road rights-of-way and other possible public uses as noted in Section 4A.

Section 2. The sealed bid auction for the disposal of each of these parcels shall be conducted in substantially this manner:

- A. Any person 18 years of age or older may bid on any number of parcels. A person may submit a bid on his or her behalf, or on behalf of any other member of his immediate family. All bids must be made upon the form provided by the Borough Finance Director, and shall be filed at locations designated by the Finance Director. A person may file only one bid on each parcel. There shall be no limitation upon the number of different parcels for which a person may file applications.
- B. The sale brochures and bid forms will be available at the Borough Administration Building in Soldotna, and at the Seward, Homer, Seldovia, Kenai and Soldotna City Halls. No brochures or bid forms will be mailed.
- C. All sales will be made by immediate cash payment in full or by real estate contract to the highest bidder. The minimum bid shall be \$300 per acre. The Borough shall make no representations as to actual market value of the parcel at the time of sale.
- D. In the event that the successful bidder is a disabled American veteran, he may be eligible for a credit as set forth in Chapter 1.26 of the Borough Code of Ordinances.
- E. All parcels are sold "as is" and the purchaser shall be responsible for visiting the parcel and for ascertaining the conditions at the site and the extent of any easements, encroachments, alterations, or infringements upon the parcel by other persons. The Borough reserves the right to preserve monuments, historical sites, graveyards, cemeteries and other public interest memorabilia and to adjust the sale parcel at any time before the day of sale. The purchaser is responsible for obtaining any land use permits or other permissions required by any state or federal agency. The Borough does not warrant that the land is suitable for the purchaser's intended purposes but may be subject to covenants imposed by the Borough as indicated for each parcel listed in the sale brochure.

- F. In the event that certain other rights to the parcel have been previously granted by the Borough or the State of Alaska, or any previous owner, then the sale of the parcel shall be made subject to them. Where the possibility of such pre-existing rights would be reasonably apparent from a visit to the site, the purchaser shall be charged with putting himself on notice of the possibility that pre-existing rights may exist and that further inquiry is required.
- G. Prior to conveyance of the parcel, the Borough will reserve rights and easements necessary to provide for desirable public rights-of-way and access to adjacent and interior parcels of land.
- H. A 10% discount will be applied to cash payment in full at the time of purchase.
- I. The selected purchaser of any parcel must deposit with the Borough Finance Director a down payment equal to at least 15% of the total purchase price of the parcel.
- J. The principal and interest shall be paid in 10 equal annual installments on all balances up to \$30,000 and in 20 equal annual installments on balances of \$30,000 or more. Simple interest at the annual rate of 10% will be charged. Payment of principal and accrued interest shall become due and payable on September 1 of each year and shall become delinquent after October 1 of each year. There shall not be a prepayment penalty for accelerated payment of the principal balance. Annual escrow fees (if any) will be paid by the purchaser.
- K. A separate bid form shall be used for each parcel. Each bid must be received by the Director of Finance or his designee at the time and date designated by the Mayor. Every bid shall be enclosed in a separate sealed envelope marked with the parcel for which the bid is submitted. No bid shall be accepted after the time for the close of bids.
- L. On the date and time designated by the Mayor, the Finance Director will collect all of the sealed bids which shall be opened to determine the successful bidder for each of the parcels. In case of a tie bid, the tie will be broken by drawing the name of one of the tie bidders out of a hat. The bidder whose name is drawn as the tie breaker will be deemed to have bid an additional one dollar (\$1) in breaking the tie.

- M. Upon final payment of all sums due under the purchase, a warranty deed shall within 30 working days be conveyed by the Borough to the purchaser. No rights shall vest in the purchaser until satisfactory completion of any contract for purchase. In the event of a default for nonpayment or other reason, the interest of the purchaser shall be forfeited.
- N. The Borough will make a reasonable effort to disclose all types of information available to the Borough to assist interested persons in determining soil conditions, wetlands, flood plains, easements and other encroachments.
- O. The Planning Commission shall not accept a final subdivision plat of any sale land upon which there exists an unpaid balance. The harvesting of timber, or the extraction of sand or gravel for commercial purposes, will not be permitted until the Borough transfers title to the purchaser upon payment in full for the parcel.

Section 3. The sealed bid auction shall be conducted substantially as follows:

- A. Participants in the sealed bid auction must file their applications with the Borough Finance Director not less than 10 days prior to the date of the sealed bid opening. A \$10.00 non-refundable deposit shall accompany each bid form.
- B. The Finance Director shall publish two weekly notices in a newspaper of general circulation noting the date of the auction and of registration requirements. The second notice shall be published not less than two weeks prior to the closing date for the submission of bids.
- C. The Finance Director shall provide for an independent audit of all applications and of the actual conduct of the auction.
- D. The Finance Director shall open all bids submitted for each parcel and shall list every bid and the amount of the bid at the Borough Administration Building at the time and date designated by the Mayor.
- E. The person submitting the highest bid shall be required to deposit with the Finance Director the necessary down payment and to sign the appropriate real estate contract and promissory note within 30 business days of notification of selection, or his or

her rights shall be forfeited. The next highest bidder in turn shall be afforded a similar period to complete the transaction if the prior eligible applicant forfeits the rights to purchase. The down payment to the Borough Finance Director must be in cash or by certified or cashier's check.

F. The necessary legal documents shall be prepared by the Borough and shall be executed within 45 calendar days of selection as purchaser. The Borough will cause the proper documents to be recorded in the appropriate recording district. The purchaser will pay the cost of recording and any applicable escrow fees. The deed shall be warranty made out in the name of the applicant and (spouse, i.e., tenants by the entirety) as filed and no substitutions, alterations, or changes will be permitted. After completion of the above documents the purchaser may sell or assign his interest in the property, subject to written notification to the Mayor or his designee.

G. Definitions

1. Immediate family is anyone 18 years of age or older who is the person's spouse, child, parent, parent-in-law, sibling or grandparent.
2. Purchase price is net price paid after cash discount or disabled veteran's credit.

Section 4. The Mayor is authorized to schedule the sale upon completion of the survey, filing of the final plat, and completion of other necessary conditions.

A. The Mayor will fix a date and administer the sale, and all sale lands except those lands retained by Assembly action and those public use lands reserved for rights-of-way, schools, public open areas, solid waste sites, public facilities sites and beach access will be sold; and sale lands not sold may be offered for sale under rules published by the Mayor, or returned to the Borough's land inventory for further disposition at a later time.

Section 5. This ordinance takes effect immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH ON THIS _____ DAY OF _____, 1983.

ATTEST:

Donald E. McCloud, Assembly President

Borough Clerk

Kenai Peninsula Borough
Ordinance 83-18
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