

Introduced by: Mayor  
Date: 12/08/98  
Hearing: 01/05/99  
Action: Enacted  
Vote: 8 Yes, 1 Abstain

**KENAI PENINSULA BOROUGH  
ORDINANCE 98-74**

**AN ORDINANCE AUTHORIZING THE CONVEYANCE OF A 9.64± ACRE  
PARCEL WITHIN THE CITY OF KENAI NEXT TO KENAI CENTRAL  
HIGH SCHOOL TO THE CITY OF KENAI AT OTHER THAN  
MARKET VALUE, FOR PUBLIC FACILITIES**

**WHEREAS,** the borough expects to receive a quitclaim deed from the Alaska Mental Health Trust to the subject land through a land exchange as authorized by Ordinance 98-69; and

**WHEREAS,** the land will be deposited into the land bank; and

**WHEREAS,** the City of Kenai has identified this as the most appropriate, suitable area to construct a covered, multipurpose recreational facility for the City of Kenai and a possible site for the Challenger Learning Center of Alaska; and

**WHEREAS,** the City of Kenai is a local government within the Kenai Peninsula Borough providing services to Borough residents; and

**WHEREAS,** the land requested by the City of Kenai should be conveyed at other than fair market value to enable the City of Kenai to better serve Borough residents; and

**WHEREAS,** the KPB Planning Commission at its regularly scheduled meeting of December 14, 1998 recommended enactment by unanimous consent.

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

**SECTION 1.** That pursuant to KPB 17.10.120 (D) the Assembly finds that conveying that portion of the W $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$  lying south of the Kenai Spur Highway, R.O.W., Section 33, T6N, R11W, S.M., Alaska to the City of Kenai at other than fair market value, is in the best interest of the public and the Borough. This finding is based on the following facts:

- a. The land will be used for a public purpose beneficial to the general public.
- b. The City of Kenai is a local government within the Kenai Peninsula Borough providing services to Borough residents.

- c. The subject land will provide a site for a covered, multipurpose recreational facility for the City of Kenai and a possible site for the Challenger Learning Center of Alaska.

**SECTION 2.** The mayor is authorized, pursuant to KPB 17.10.100(I), Negotiated Sale or Lease, to negotiate the sale of that portion of the W½SW¼SE¼ lying south of the Kenai Spur Highway, R.O.W., Section 33, T6N, R11W, S.M., Alaska (hereafter referred to as "property") to the City of Kenai, subject to the sale conditions required by this ordinance and the applicable consistent provisions of KPB 17.10. The sale price shall be \$1.00. The land shall be conveyed by Quitclaim Deed. The authorization is for negotiation solely with the City of Kenai, and it may not assign any rights to negotiate or enter an agreement for sale to any other person or entity. The multi-purpose facility or Challenger Learning Center shall be placed on the property within three years of the date of this ordinance or the property shall be reconveyed to the borough. This ordinance is contingent on the conveyance of the property to the borough by the State of Alaska, Alaska Mental Health Trust pursuant to Ordinance 98-69.

**SECTION 3.** Exceptions to KPB 17.10.060 requiring classification before deposit in the land bank, KPB 17.10.090, requiring classification and disposition of borough land at fair market value, and KPB 17.10.110, Notice of disposition, are appropriate based on the following findings:

1. That special circumstances or conditions exist:

FINDING: Special circumstances exist in that this is a conveyance to another government entity, City of Kenai, for the purpose of constructing public facilities benefitting the residents of the borough.

2. That the exception is necessary for the preservation and enjoyment of a substantial property right and is the most practical manner of complying with the intent of this chapter:

FINDING: Classification prior to deposit in the land bank and sale at fair market value as required by KPB 17.10.060 and 17.10.090 is unnecessary as the property is committed for facilities which will benefit all borough residents. A deed restriction requiring the property to be used for governmental purposes will be included in the conveyance without classifying the parcel. The projects planned for the property are time-critical and forgoing the classification process will expedite development of the involved public facilities. Classifying the property during the short time the borough will own it will not serve a useful purpose. Classifying the property will not direct how the borough will manage or dispose of the property; the City of Kenai will be managing the property and the purpose of the disposal is already known, i.e. the establishment of public facilities.

KPB 17.10.110 Notice of Disposition, requires publishing notice of the sale four times in the 30-day period immediately preceding the date of the sale. This notice requirement is intended to make the public aware of the opportunity to purchase borough land and will not serve a useful purpose in this situation because the grantee and purpose for the conveyance are already identified.

3. That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the area.

FINDING: Conveying the land to the City of Kenai will not be detrimental to the public welfare or injurious to other property in the area. The proposed covered, multipurpose recreational facility for the City of Kenai and Challenger Learning Center of Alaska are public purposes benefitting borough residents. The development is compatible with adjacent school facilities because the new facilities will be used in part for certain school-related activities and educational enhancement and for the use and benefit of the general public.

**SECTION 4.** The land shall be conveyed subject to a covenant in the deed restricting the use of the land to government purposes as defined by KPB 17.10.250(O).

**SECTION 5.** The mayor is authorized to sign any documents necessary to effectuate this ordinance upon receipt of a deed to the property from the State of Alaska Mental Health Trust.

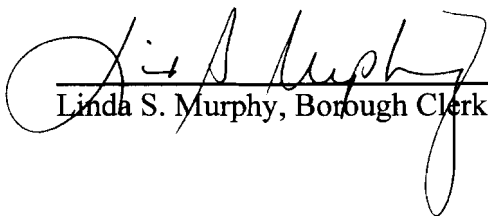
**SECTION 6.** That this ordinance shall take effect immediately upon its enactment.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 5TH DAY OF JANUARY , 1999.**



Ronald Wm. Drathman, Assembly President

ATTEST:



Linda S. Murphy, Borough Clerk

