

Introduced by:	Mayor
Date:	10/09/01
Hearing:	11/06/01
Action:	Amended and Postponed until 12/11/01
Action:	Enacted
Vote:	9 Yes, 0 No
Date:	12/11/01

**KENAI PENINSULA BOROUGH
ORDINANCE 2001-34**

**AN ORDINANCE AUTHORIZING A LAND EXCHANGE TO ACQUIRE A FORMER
MATERIAL SITE IN DOWNTOWN ANCHOR POINT FOR A SOLID WASTE
TRANSFER FACILITY AND PROVIDE THE ALASKA DEPARTMENT OF
TRANSPORTATION AND PUBLIC FACILITIES WITH A MAINTENANCE SITE ON
EAST END ROAD, HOMER**

WHEREAS, the Alaska Department of Transportation and Public Facilities (ADOT/PF) has identified an approximate five-acre site owned by the Borough on the easterly boundary of the McNeil Canyon Elementary School parcel to store road-sanding material; and

WHEREAS, the Borough desires to acquire a former ADOT/PF material site in downtown Anchor Point as a Solid Waste transfer/drop-box site and for other public purposes; and

WHEREAS, the Alaska Department of Transportation and Public Facilities parcel has been valued at \$60,000, the Kenai Peninsula Borough parcel has been appraised at \$27,000, and, as a part of this exchange, the Kenai Peninsula Borough will contribute an additional \$33,000, including \$30,000 in cash and a \$3,000 credit for one-half of the subdivision and appraisal costs; and

WHEREAS, the exchange will serve a public purpose for both agencies; and

WHEREAS, the Anchor Point Advisory Planning Commission recommended enactment by majority vote at its regularly scheduled meeting of October 9, 2001; and

WHEREAS, the KPB Planning Commission recommended enactment by majority vote at its regularly scheduled meeting of October 8, 2001.

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

SECTION 1. That the Assembly finds that exchanging the following described property is in the best interest of the Borough:

Property to be conveyed to ADOT/PF:

Lot 1, McNeil School Subdivision, KPB Preliminary Plat No. 99-154, Homer Recording District, Third Judicial District, State of Alaska, containing 5.00 acres ± (Portion of Tax Assessor No. 172-311-13)

Property to be conveyed to the Borough:

A former ADOT/PF material site, designated M.S. 21-1-293-1, containing approximately 16 acres, and more particularly described by legal description on Attachment A.

This finding is based on the following facts:

- a. Both parcels of land will be used for public purposes beneficial to the general public.
- b. The Anchor Point community supports the acquisition of the ADOT/PF parcel.
- c. The land to be conveyed to ADOT/PF is an appropriate site to store road-sanding material and will not adversely impact the McNeil Canyon Elementary School.
- d. The land to be conveyed to ADOT/PF has been valued at \$27,000; and the property to be conveyed to the borough has been appraised at \$60,000; the difference of \$33,000 shall be paid with \$30,000 in cash from the borough and crediting the borough with \$3,000 toward one-half of the subdivision and appraisal costs, such that the exchange is for equal value.

SECTION 2. That the terms and conditions of the exchange agreement accompanying this ordinance are hereby approved.

SECTION 3. That the sum of \$30,000 is available in the Land Trust Fund Land Purchases account 250.21210.01SWD.48610 for the acquisition and closing costs. The \$30,000 payment shall be used as a cash payment.

SECTION 4. The proposed classification of the land to be acquired from ADOT/PF is government.

SECTION 5. The mayor is authorized, pursuant to KPB 17.10.100 (C) to exchange the land described in section 1 above with the ADOT/PF. The Borough land shall be conveyed by Quitclaim Deed. The authorization is for exchange solely with ADOT/PF, and it may not assign any rights to negotiate or enter an agreement for exchange to any other person or entity.

SECTION 6. Pursuant to KPB 17.10.230, that the Assembly authorizes an exception to the requirements of KPB 17.10.090, Disposition of borough land; KPB 17.10.110,

Notice of disposition; and KPB 17.10.130(D), Conveyance of land based on the following facts:

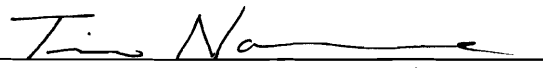
1. That special circumstances or conditions exist;
 - a. This is a conveyance to another government entity, ADOT/PF, in exchange for land the Borough desires for a Solid Waste transfer/drop-box site and for other public purposes benefiting the residents of the Borough.
 - b. Lot 1, McNeil School Subdivision is not classified pursuant to KPB 17.10.080. Excepting KPB 17.10.090 allows conveyance of Lot 1 to ADOT/PF without classifying the site. ADOT/PF as a government agency will make use of Lot 1 in a manner that benefits the public.
 - c. 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 an opportunity to purchase Borough land and will not serve a useful purpose in this situation because the grantee is already identified. It is not practical to expend resources in giving public notice on this unique government-to-government exchange.
 - d. KPB 17.10.130 (D) requires that lands or interests in lands be conveyed by an instrument containing restrictions that restrict the use of land to that classification and prohibit the use of the land for any other purpose. If Lot 1 will not be classified because it will be used by ADOT/PF in a manner that benefits the public then KPB 17.10.130 (D) is not applicable.
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;
 - a. ADOT/PF is acquiring Lot 1, McNeil School Subdivision by exchange of another valuable piece of real property. Making the exceptions explained above will enable ADOT/PF to maximize its use of Lot 1 for the public benefit.
 - b. The Borough will be receiving a site that will be a permanent location for a Solid Waste transfer site.
3. That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the area;

- a. The public welfare is benefited by ADOT/PF being able to fully utilize Lot 1 in a manner that will facilitate its maintenance of East End Road. Additionally, the property to be received will be used for an important public health and welfare purpose, solid waste disposal.

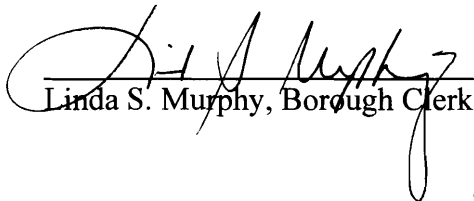
SECTION 7. The mayor is authorized to sign any documents necessary to effectuate this ordinance.

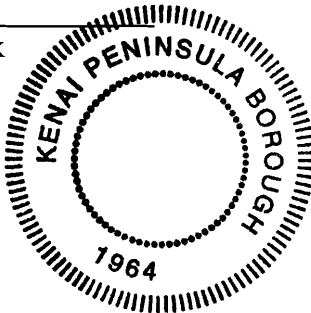
SECTION 8. That this ordinance shall take effect immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 11TH DAY OF DECEMBER, 2001.


Timothy Navarre, Assembly President

ATTEST:


Linda S. Murphy, Borough Clerk



TRACT DESCRIPTION
M.S. N° 21-1-293-1

A parcel of land situated in the southwest one-quarter of the northeast one-quarter, Section 4, Township 5 South, Range 15 West, Seward Meridian, Homer Recording District, Third Judicial District, State of Alaska, more particularly described as:

Commencing at the center-north one-sixteenth corner of said Section 4, the True Point of Beginning;

thence S 0°02'E, a distance of 601.34 feet along the one-quarter line of Section 4, to the northerly right of way line of Spinnaker Avenue as set forth in Nelson-Collie Tracts;

thence S 89°56'E, a distance of 1,272.19 feet, more or less, in part along said northerly right of way line of Spinnaker Avenue, to a point on the westerly right of way line of the Old Sterling Highway;

thence N 40°47'E, more or less, a distance of 76 feet, more or less, along said right of way line, to a point on the southerly line of Parcel R-21-1-052-1 as set forth in the Commissioner's Quitclaim Deed, recorded in Book 0194 at Page 985;

thence N 89°56'W, a distance of 136.71 feet, more or less, along the southerly boundary line of, and to the southwesterly corner of, said Parcel R-21-1-052-1;

thence N 0°01'W, a distance of 478.73 feet, in part coincident with the westerly boundary line of said Parcel R-21-1-052-1;

thence N 89°56'W, a distance of 185.3 feet;

thence N 0°01'W, a distance of 65 feet to a point on the northerly one-sixteenth line of said Section 4;

thence N 89°56'W, a distance of 1,000 feet along the northerly one-sixteenth line of said Section 4, to the True Point of Beginning.

Containing 16.27 acres, more or less.

02001-34
Attachment "A"