

Introduced by: Powell, Popp, Moss, Fischer  
Date: 10/09/01  
Hearing: 11/06/01  
Action: Enacted as Amended  
Vote: 9 Yes, 0 No

**KENAI PENINSULA BOROUGH  
ORDINANCE 2001-36**

**AN ORDINANCE AUTHORIZING THE CONVEYANCE OF PROPERTY LOCATED  
ON KALIFORNSKY BEACH ROAD TO COOK INLET AQUACULTURE  
ASSOCIATION FOR LESS THAN FAIR MARKET VALUE**

- WHEREAS,** Cook Inlet Aquaculture Association ("CIAA") is a nonprofit corporation incorporated in 1976 and organized to protect and rehabilitate self-perpetuating salmon stocks and salmon habitat in Cook Inlet and to maximize the value of the salmon resource by applying science and technology; and
- WHEREAS,** on July 7, 1985, the Kenai Peninsula Borough leased land to CIAA for a period of 30 years, terminating on May 31, 2015, and renewable for successive 10-year terms upon the same terms as included in the initial lease; and
- WHEREAS,** the annual lease payment is 5 percent of the then current year's assessed value of the land, excluding improvements, and subtracting 60 percent of that figure; and
- WHEREAS,** CIAA was granted an option to purchase the land by payment of the full assessed value at any time during the lease term; and
- WHEREAS,** to date CIAA has paid the total sum of \$52,387 in annual lease payments to the borough; and
- WHEREAS,** the current assessed value of the land is \$139,100, and the building, which was not paid for by the borough, is \$286,300; and
- WHEREAS,** CIAA is suffering severe financial restrictions as it is supported by a 2 percent tax on gross commercial salmon fishing revenues which have significantly decreased during the last few years; and
- WHEREAS,** CIAA has requested that the borough transfer this property to CIAA for the sum of \$1 in order to assist it in continuing to fulfill its mission and to enable it to further its economic development efforts; and
- WHEREAS,** the Alaska State Legislature adopted House Resolve 6 on June 20, 2001, supporting the CIAA's plan for enhancement and rehabilitation of Cook Inlet salmon fisheries; and

**WHEREAS,** the Kenai Peninsula Borough has adopted nonareawide economic development powers in KPB Chapter 19.30;

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

**SECTION 1.** That the mayor is authorized to deposit this land into the land bank and sell the following-described property to Cook Inlet Aquaculture Association via quitclaim deed for the sum of \$1.00 subject to the terms and conditions contained in this ordinance and applicable terms of KPB Chapter 17.10:

T5N, R11W, Seward Meridian, Alaska, Section 22, Tract A, Kenai Peninsula Borough Aquaculture Subdivision, Plat No. 85-73.

**SECTION 2.** That KPB 17.10.100(I) authorizes the assembly to approve the negotiated sale or lease of borough land for other than fair market value if the ordinance authorizing the sale contains:

1. a finding that sale for an amount other than fair market value is in the best public interest;
2. a statement of the facts on which the finding is based; and
3. the period of time during which the offer may be accepted.

In accordance with the above requirement, the assembly hereby finds that the sale to Cook Inlet Aquaculture for an amount other than fair market value is in the best public interest based upon the following factual findings:

1. Cook Inlet Aquaculture Association provides valuable research and resources for promoting economic development in the Kenai Peninsula Borough salmon industries as well as personal use and subsistence fisheries;
2. Conveying the subject property to Cook Inlet Aquaculture Association for less than fair market value would enable CIAA to have the additional resources necessary to raise funds to continue promoting the economy and through research and development of salmon products; and
3. The sport and commercial salmon industries form two of the more significant industries impacting the economy of the Kenai Peninsula Borough.

**SECTION 3.** That pursuant to KPB 17.10.230, the assembly hereby authorizes exceptions to KPB 17.10.080 (requiring classification prior to transfer), KPB 17.10.110 (that notice of this sale be published four times in the thirty-day period immediately prior to the date), and KPB 17.10.120(A) (terms of a land sale and requiring the date of sale be listed in the ordinance) based upon the following findings of fact:

1. The following special circumstances or conditions exist:

- A. CIAA is a nonprofit corporation formed for the purpose of researching and developing for economic purposes salmon fisheries in Cook Inlet.
  - B. The subject property has been leased to CIAA since 1985 and CIAA has used the building primarily for public purposes and economic development purposes, and restrictions will be imposed to ensure the property continues to be used for such purposes.
  - C. As this is a negotiated sale, the classification process would unnecessarily delay the transfer and is unnecessary provided the safeguards against nonpublic uses are followed.
  - D. As this is a negotiated sale, advertising the sale and providing a sale date would not serve any public purpose as the purchaser has already been identified.
2. That the exception is necessary for the preservation and enjoyment of a substantial property right and is the most practical means of complying with the intent of KPB Chapter 17.10:
- A. Following the classification process is unnecessary as restrictions will be imposed as stated above, and waiving it is consistent with accomplishing the goal of transferring this property to CIAA quickly in order that CIAA may utilize it for financial leveraging.
  - B. That stating a date of sale for negotiated sale is not necessary as during the process of transfer there may be unforeseen delays and this is only directed to a single buyer. Waiving the classification and date of sale requirements are consistent with the intent of KPB Chapter 17.10 in that no other interests would be damaged by waiving these requirements, and the transfer may proceed more expeditiously.
  - C. The purchasing of an ad would be a waste of borough resources and the intent of the section, that notice be given to the public of this pending sale, is complied with in the ordinance process.
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 will receive notice of the pending sale through the ordinance notification process.
  - B. The intent is to transfer this to one entity so providing the specific date of sale in the ordinance is not necessary.
  - C. Waiving the classification requirement will not be detrimental to the public welfare or injurious to other property as the ordinance also requires that the property be used for public purposes in conjunction with the existing purposes and functions of CIAA. Classifying the land would not further this purpose.
  - D. The public will receive notice of this sale through the ordinance process.

**SECTION 4.** The period of time during which this offer may be accepted is from passage of the ordinance until 90 days after passage of the ordinance.

**SECTION 5.** That applicable provisions of KPB 17.10.240 and KPB 17.10.130 shall govern this sale, and, accordingly, CIAA shall be responsible for all fees including recording fees, closing fees, collection fees, surveying and platting fees if applicable, and other fees associated with this sale. A restriction shall be placed on the deed or other appropriate document prohibiting the placement of liens, mortgages, or other similar encumbrances upon the property at any time.

**SECTION 6.** The transfer of this property shall be subject to the following additional conditions which shall be recognized in the deed:


1. A restriction shall be placed in the deed requiring that the land shall be used solely for the operation of CIAA authorized purposes including protecting and rehabilitating self-perpetuating salmon stocks and salmon habitat in Cook Inlet, and to maximize the value of the salmon resource, promoting salmon development, and other public purposes. If the property is not primarily used for these public purposes, then the property shall automatically revert to the Kenai Peninsula Borough for failure to comply with this requirement.
2. If CIAA shall pay to the borough the full fair market value of the land at the time of such payment, not including improvements, plus all costs associated with the sale of the property, then the deed restrictions may be removed.

**SECTION 7.** That this ordinance is enacted notwithstanding the provisions of KPB 19.30.020-070.

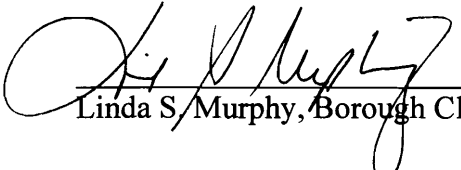
**SECTION 8.** That the mayor is authorized to negotiate all documents necessary to fulfill the intents and purposes of this ordinance.

**SECTION 9.** That this ordinance takes effect immediately upon its enactment.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 6TH DAY OF NOVEMBER, 2001.**

  
Timothy Navarre, Assembly President

ATTEST:

  
Linda S. Murphy, Borough Clerk

