

Introduced by: Mayor
Date: 07/09/02
Hearing: 08/06/02
Action: Enacted as Amended
Vote: 9 Yes, 0 No

**KENAI PENINSULA BOROUGH
ORDINANCE 2002-24**

**AN ORDINANCE AUTHORIZING THE SALE OF 20 PARCELS OF BOROUGH LAND
BY OUTCRY PUBLIC AUCTION**

WHEREAS, the borough has received patent to the land listed on Attachment A of this ordinance; and

WHEREAS, the land has been appropriately classified for deposit into the land bank; and

WHEREAS, the land has been deposited into the land bank pursuant to KPB 17.10.060(B); and

WHEREAS, the Planning Commission conducted a public hearing and recommended enactment during its regularly scheduled July 22, 2002 meeting;

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

SECTION 1. The parcels listed on Attachment A are authorized for sale at the minimum bid of the fair market value as established by the assessing department.

SECTION 2. The method of disposal shall be by outcry public auction pursuant to KPB 17.10.100(B). The date of the auction shall be September 28, 2002. It shall be held at 11:00 a.m. in the Assembly Chambers, 144 N. Binkley, Soldotna, Alaska.

SECTION 3. All parcels will be conveyed by Quitclaim Deed. Either title insurance or another similar report must be obtained for all borough-financed sales, at the buyer's expense, showing the condition of title and that there are no unsatisfied judgments or liens against the buyer at the time of closing, the latter of which shall also be verified by the buyer. In the event a title report showing a reasonably acceptable condition of title cannot be obtained, then either the buyer or the KPB may elect to terminate the purchase contract, in which case all monies on deposit will be refunded to the buyer.

SECTION 4. Upon successfully bidding or entering into an agreement to acquire the land, a down payment of ten percent (10%) of the sale price, or \$1,500.00, whichever is greater, shall be made and the applicable terms and provisions of KPB 17.10.120 and KPB 17.10.130 shall apply.

SECTION 5. Pursuant to KPB 17.10.070(D), if any lands are not sold by the authorized means within ninety days, or the period specifically authorized by the ordinance, the property may be available for sale as an over-the-counter sale to be conducted as provided in section 17.10.100(H). Any lands not sold within 120 days after being eligible over-the-counter will revert to the land bank. Pursuant to KPB 17.10.130(D) all lands or interests in lands shall 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. The assembly authorizes exceptions to KPB 17.10.070(D). These exceptions are based on the following findings of fact pursuant to KPB 17.10.230.

1. Special circumstances or conditions exist.
 - A. It is in the best interest of the borough to establish an on going, year-to-year, over-the-counter land sale after an outcry public auction or a sealed bid land sale rather than an over-the-counter sale that lasts only 120 days.
 - B. If borough land does not sell a parcel through an outcry public auction or a sealed bid land sale then it may need a longer exposure period in the market place. An ongoing, year-to-year, over-the-counter land sale will provide the longer exposure period to the market place.
 - C. An ongoing, year-to-year, over-the-counter land sale better serves the public by providing continuous opportunity to purchase public land.
 - D. The borough may add parcels to an ongoing, year-to-year, over-the-counter land sale after subsequent outcry public auctions or a sealed bid land sales as an efficient and effective means of marketing borough land.
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. KPB 17.10 through its numerous provisions and methodology for sale of borough land intended that borough land be sold on a regular basis. The intent of the land sale provisions was to provide the public the opportunity to purchase borough land. An ongoing, year-to-year, over-the-counter land sale serves the public better than an over-the-counter sale that lasts only 120 days and is the most practical manner of complying with the intent of this chapter.

- B. As provided in Section 6 below, the ongoing, year-to-year, over-the-counter land sale will commence the first business day following the public outcry auction. However, a parcel(s) bid on at the public outcry action that is not successfully closed may be added later to the over-the-counter land sale, normally within ninety days, but after a longer period of time if circumstances warrant as authorized by the mayor.
- 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 above findings provide that an ongoing, year-to-year, over-the-counter land sale will benefit the public and not injure it.
 - B. The effect on private property in the area of borough land offered for sale through an ongoing, year-to-year, over-the-counter land sale as opposed to another land sale method will be negligible.

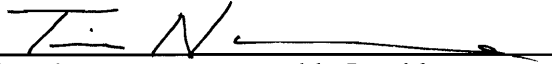
SECTION 6. Based on the foregoing, the mayor is hereby authorized to establish an ongoing, year-to-year, over-the-counter land sale of borough land as provided in section 17.10.100(H) of parcels that are not sold at an outcry public auction or a sealed bid land sale.

- 1. The ongoing, year-to-year, over-the-counter land sale shall commence the first business day following the public outcry auction authorized in sections 1 and 2 of this ordinance. Parcels will be sold at appraised value and at the same terms as the public outcry auction.
- 2. The mayor may add later to the over-the-counter land sale a parcel(s) bid on at the public outcry action that is not successfully closed, normally within ninety days, but after a longer period of time if circumstances warrant.
- 3. A winning bidder that fails to complete the purchase of a parcel will forfeit the right to purchase the same parcel in the over-the-counter sale.
- 4. All conditions in KPB 17.10.130 and KPB 17.10.240 shall apply unless clearly inconsistent with this ordinance.
- 5. All other parcels to be included in the ongoing, year-to-year, over-the-counter land sale shall be added by ordinance.

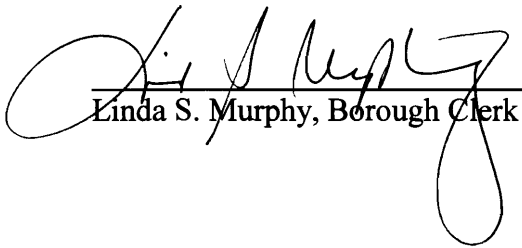
SECTION 7. The mayor is authorized to sign any documents necessary to effectuate the ordinance.

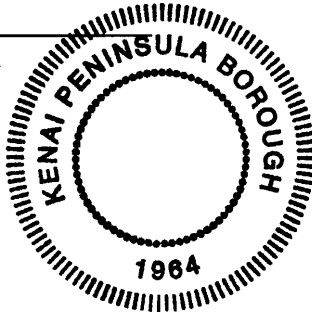
SECTION 8. This ordinance shall become effective immediately upon enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 6TH DAY OF AUGUST, 2002.


Timothy Navarre, Assembly President

ATTEST:


Linda S. Murphy, Borough Clerk



ORDINANCE 2002-24 ATTACHMENT A

01717010	North Kenai	Government Lot 113 Section 14, T6N, R12W, S.M., Alaska, containing 1.90 acres ±	Residential	\$ 5,000
01726004	Salamatof Lake - North Kenai	Government Lot 4, Section 11, T6N, R12W, S.M., Alaska, Kenai Recording District, Third Judicial District, containing 8.00 acres ±	Residential	\$23,000
045-220-21 (Portion of)	Kenai	NE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 34, T6N, R11W, S.M., Alaska, containing 10.00 acres ±	Residential	\$37,000
06537019	Sterling	SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 2, T5N, R8W, S.M., Alaska, containing 37.02 acres ±	Rural	\$69,000
131-080-33	Tote Road	Tract 1, Tote View Subdivision, Plat No. 2001-05, Kenai Recording District, containing 33.101 acres ±	Residential	\$17,500
131-080-38	Tote Road	Tract 6, Tote View Subdivision, Plat No. 2001-05, Kenai Recording District, containing 37.718 acres ±	Residential	\$38,900
13301010	Cohoe	SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 9, T3N, R12W, Seward Meridian, Alaska, containing 40.00 acres ±	Rural	\$40,000
13301011	Cohoe	W $\frac{1}{2}$ SE $\frac{1}{4}$ Section 9, T3N, R12W, S.M., Alaska, containing 80.00 acres ±	Rural	\$60,000
13306208	Cohoe	Tract A, Cohoe Alaska Subdivision, Plat No. 1348, Kenai Recording District, containing 9.02 acres ±	Residential	\$20,500
13310031	Cohoe	E $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 28, T3N, R12W, S.M., Alaska, excluding Cohoe Loop Road ROW, containing 111.37 acres ±	Rural	\$79,200
13701018	Cohoe	Government Lot 5 and that portion of Government Lot 2 Section 9, T2N, R12W, S.M., Alaska, lying west of Cohoe Loop Road, except Porcupine Lane as shown on survey plat of Porcupine Lane, Plat No. 79-116, Kenai Recording District, containing ___ acres ±	Residential	\$74,100
13701019	Cohoe	That portion of Government Lot 2 Section 9, T2N, R12W, S.M., Alaska, lying east of Cohoe Loop Road, containing 0.55 acres ±	Residential	\$14,800
13705088	Kasilof/Cohoe	S $\frac{1}{2}$ SW $\frac{1}{4}$ Section 13, T2N, R12W, S.M., Alaska, containing 80.00 acres ±	Residential	\$40,000
13906009	Clam Gulch	SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 18, T1N, R12W, S.M., Alaska, containing 2.96 acres ±	Residential	\$32,000
19332020	Kachemak Bay	Lot 8, Block 1, Harbor Heights Alaska Subdivision, Plat No. 67-551, Kenai Recording District, containing 2.96 acres ±	Rural	\$49,500
211-280-22	Three Mile Creek	Lot 9, Block 5, Three Mile Creek Subdivision, Plat No. 72-07, Anchorage Recording District, 2.62 acres ±	Residential	\$10,500
04522005	City of Kenai	Government Lot 128, Section 34, T6N, R11W	Residential	\$ 9,700
04522006	City of Kenai	Government Lot 127, Section 34, T6N, R11W	Residential	\$ 9,700
04522011	City of Kenai	Government Lot 153, Section 34, T6N, R11W	Residential	\$ 9,700
04522012	City of Kenai	Government Lot 154, Section 34, T6N, R11W	Residential	\$ 9,700