

Introduced by:

Merkes, Mayor

Date:

02/17/04

Hearing:

03/16/04

Action:

Enacted as Amended by Substitution

Vote:

8 Yes, 1 No

**KENAI PENINSULA BOROUGH  
ORDINANCE 2003-19-38 (MERKES) SUBSTITUTE**

**AN ORDINANCE AUTHORIZING THE ACQUISITION OF LOTS 4, 5, 6,  
BLOCK 2, SUMPTER SUBDIVISION FOR AN ADDITION TO THE STERLING  
SENIOR CENTER AND APPROPRIATING \$61,000 TO ACQUIRE THE  
PROPERTY AND AUTHORIZING THE SALE OF SUBJECT LOTS TO THE  
STERLING AREA SENIOR CITIZENS**

**WHEREAS,** the Sterling Area Senior Citizens ("SASC"), a nonprofit corporation, desires to acquire Lots 4, 5, and 6, Block 2, Sumpter Subdivision to construct additional facilities including installing a well and septic system to support existing and planned facilities to serve the Sterling area seniors; and

**WHEREAS,** the SASC requests the borough acquire the subject lots on its behalf so that the borough can then sell the lots to the Sterling Area Senior Citizens and finance the sale; and

**WHEREAS,** the borough supports its senior centers and appreciates the services they provide to its senior residents; and

**WHEREAS,** the borough can provide favorable long-term financing to the SASC, and in return the Land Trust Fund will receive a secured income stream that exceeds the rate at which the Land Trust Fund is currently invested; and

**WHEREAS,** the assessing department has confirmed that the sale price reflects market value; and

**WHEREAS,** the KPB Planning Commission at its regularly scheduled meeting of February 23, 2004 recommended enactment by unanimous consent;

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

**SECTION 1.** That the purchase of the following described real property for \$60,000 plus closing costs not to exceed \$1000 is in the best interests of the borough:

Lots 4, 5, and 6, Block 2, Sumpter Subdivision, according to Plat No. 525, records of the Kenai Recording District, Third Judicial District, State of Alaska.

**SECTION 2.** That \$61,000 is appropriated from the Land Trust Fund to account 250.21210.48610 for the acquisition, closing costs, and prorated 2004 taxes.

**SECTION 3.** That the mayor is authorized to execute any and all documents necessary to purchase the real property described in Section 1 for the price of \$60,000 and pay up to \$1000 in closing costs, in accordance with the terms and conditions contained in this ordinance, and applicable provisions of KPB Chapter 17.10. In addition to the purchase price, the borough will pay for one-half closing costs, including without limitation all, escrow fees, title insurance charges, recording fees and bank charges up to a maximum of \$1000. Taxes will be prorated as of the date of sale. All costs will be paid in full at the time of closing. The borough will not pay a real estate commission. Unless otherwise agreed in writing, closing will occur within 90 days of the mayor signing the Purchase Agreement.

**SECTION 4.** That the Assembly finds that selling Lots 4, 5, and 6, Block 2, Sumpter Subdivision, according to Plat No. 525, records of the Kenai Recording District, Third Judicial District, State of Alaska to the Sterling Area Senior Citizens pursuant to KPB 17.10.100 (I) is for legitimate public purposes, including enabling the SASC to provide services for both the senior citizens and general public, and is in the best interest of the borough. The Assembly additionally makes exceptions to KPB 17.10.040 (requiring a statement of the proposed classification), KPB 17.10.090 (requiring classification prior to transfer), and KPB 17.10.110 (notice of a land sale). These exceptions are based on the following findings of facts pursuant to KPB 17.10.230:

1. Special circumstances or conditions exist.
  - A. The borough is acquiring subject lots specifically for sale to the SASC.
  - B. Classifying the subject lots will not serve a useful purpose for a sole source sale of land.
  - C. The purpose of the KPB 17.10.110 advertising requirement is to notify the public of an opportunity to purchase or lease KPB land and advertising this sole source sale will not serve a useful purpose.
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. The SASC will pay market value for the subject lots.
  - B. The additional property is needed to meet space requirements for

installing a well and septic system to support the existing and planned facilities.

- C. Classifying land and advertising a sale are not applicable for sole source land sales.
3. That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the area.
- A. Subject lots will be used by the SASC to provide facilities and services to seniors, some of which will also be available to the general public.
  - B. The Sterling Senior Center is appropriately located within the Sterling community.
  - C. The proposed use of the land is an expansion of uses existing on the adjacent parcel owned by the SASC and does not conflict with surrounding land uses.

**SECTION 5.** Based on the foregoing, the mayor is hereby authorized, pursuant to KPB 17.10.100 (I)) to sell the land described in Section 1 above to the SASC for \$60,000 plus all closing costs incurred for both transactions covered by this ordinance subject to the terms and conditions of this ordinance. The lots shall be conveyed by Quitclaim Deed and in accordance with the terms and conditions in the accompanying draft sale agreement. The borough will finance this sale and the Senior Center will pay 10% down, the interest rate will be 6%, and the term of the loan will be 10 years. The authorization is for sale solely to the SASC and it may not assign any rights to negotiate or enter an agreement for sale to any other person or entity.

**SECTION 6.** The Kenai Peninsula Borough will not subordinate its Deed of Trust to any other entity.

**SECTION 7.** Until the deed of trust is paid in full no surrounding properties may be included within the subdivision boundary of any plat involving the three subject parcels.

**SECTION 8.** All land conveyed to SASC shall include a “senior restriction” on the deed. This restriction shall limit the use of the land to construction and operation of senior facilities and other associated purposes. The existing facility shall be made available for borough meetings at no cost whenever possible. If the parcel is not primarily used for these public purposes for any continuous period of one year, the Kenai Peninsula Borough may foreclose the deed of trust, or if the parcel has been purchased it will be forfeited to the borough, for failure to comply with this condition unless otherwise agreed upon in writing by the borough and SASC. “Used for these public purposes” in this section includes planning, design, site

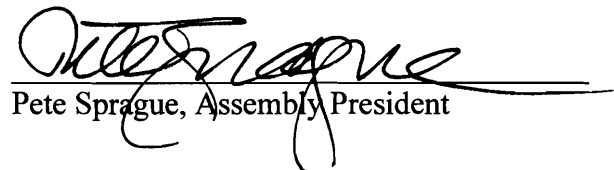
preparation, development and operation of senior citizen facilities as well as associated on-site uses. The restrictions set forth in this section shall remain on the parcel after the deed of trust is paid in full unless and until they are removed by the assembly by ordinance.

**SECTION 9.** The mayor is authorized to sign any documents necessary to effectuate the intents and purposes of this ordinance.

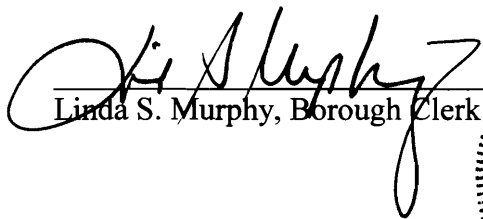
**SECTION 10.** SASC shall have 120 days from the date an offer is extended by the administration pursuant to this ordinance to accept the offer.

**SECTION 11.** That this ordinance shall take effect immediately upon its enactment.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 16TH DAY OF MARCH, 2004.**

  
Pete Sprague, Assembly President

ATTEST:

  
Linda S. Murphy, Borough Clerk

