

Introduced by: Mayor
Date: 06/03/08
Hearing: 07/08/08
Action: Enacted as Amended
Vote: 9 Yes, 0 No, 0 Absent

**KENAI PENINSULA BOROUGH
ORDINANCE 2008-15**

AN ORDINANCE AUTHORIZING THE NEGOTIATED SALE AT FAIR MARKET VALUE OF TRACT 2 NEW HOMER HIGH SCHOOL NO. 2, ACCORDING TO PLAT NO. 1987-11, CONTAINING 0.61 ACRES TO THE HOMER ASSEMBLY OF GOD, EXCEPTING THEREFROM DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY AS PER QUITCLAIM DEED RECORDED IN BOOK 320 PAGE 38, HOMER RECORDING DISTRICT, SEWARD MERIDIAN ALASKA

WHEREAS, the Kenai Peninsula Borough owns the 0.61-acre Tract 2 New Homer High School No. 2 which is a remnant parcel and is currently vacant; and

WHEREAS, the small size, irregular configuration, and topography limit the usefulness of this property; and

WHEREAS, the Homer Assembly of God church owns the adjacent property; and

WHEREAS, Greg Newell, Pastor for the Homer Assembly of God church has submitted an application on behalf of the church to process a negotiated sale under KPB 17.10.100 (I); and

WHEREAS, selling the property for fair market value is in the best interests of the borough as it ensures the borough will be fully compensated for this asset; and

WHEREAS, the church currently has limited parking and no handicap accessibility; and

WHEREAS, the proposed negotiated sale will allow the Homer Assembly of God church to build a rear entrance to the church for handicap accessibility and additional parking; and

WHEREAS, the property is zoned by the City of Homer as "Central Business District"; and

WHEREAS, the KPB Planning Commission at its regularly scheduled meeting of June 9, 2008 recommended enactment by unanimous consent;

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

SECTION 1. That the Assembly finds that selling Tract 2 New Homer High School No. 2, Plat No. 1987-11 containing 0.61 acres more or less to the Homer Assembly of God church, excepting therefrom the Department of Transportation Right of Way per Quitclaim Deed recorded in book 320 page 38, Homer Recording District, S.M., Alaska, pursuant to KPB 17.10.100 as a negotiated sale for fair market value is in the best interest of the borough.

SECTION 2. The Assembly makes an exception to KPB 17.10.110 (notice of disposition). This exception is based on the following finding of facts pursuant to KPB 17.10.230:

1. Special circumstances or conditions exist:

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:

This exception to the notice requirement is not necessary to preserve a substantial property right, and the assembly hereby authorizes exception to that finding requirement as it is impractical, and compliance is not in the best interests of the borough due to the delay and unnecessary expense it would cause.

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

- A. This small piece of property abuts only public rights-of-way and the Buyer's property.
- B. Public access to adjacent public and private lands will not be affected.
- C. The proposed disposition is advertised by publication of the ordinance in newspapers of general circulation and on the borough's Web page. Notice of the proposed disposition is also published by the planning commission agenda in newspapers of general circulation, and a public hearing is held at the planning commission level. Additional notice is not necessary to comply with the intent of KPB Chapter 17.10.

SECTION 3. That the Assembly additionally makes an exception to KPB 17.10.090 requiring classification prior to disposal. This exception is based on the following findings of facts pursuant to KPB 17.10.230:

1. Special circumstances or conditions exist:

KPB 17.10.080(A) states that classification of property is for review, plan implementation, and management purposes. The classification system designates the most appropriate uses for land and thereby guides borough management of such lands and implementation actions to provide for the identified uses. Classification immediately prior to disposal of borough land that has been specified for a certain use does not accomplish these purposes.

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:

This ordinance authorizes subject land to be sold to the Homer Assembly of God church on a non-competitive basis at market value pursuant to KPB 17.10.100(I). Classification will be redundant and not serve a useful purpose based on the findings of No. 1 above.

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 land is suitable for the proposed use and is compatible with adjacent land uses.
- B. The Homer Assembly of God church is required to comply with City of Homer zoning provisions.

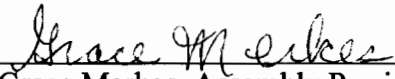
SECTION 4. Based on the foregoing, the mayor is hereby authorized, pursuant to KPB 17.10.100 (I) to sell the land described in Section 1 above to the Homer Assembly of God church for \$32,200, which is the appraised fair market value of this property. The terms of the sale is cash at closing and the buyer shall pay all closing costs.

SECTION 5. The mayor is authorized to sign any documents necessary to effectuate this ordinance.

SECTION 6. The Homer Assembly of God church shall have until 180 days after enactment of this ordinance to accept this offer by execution of a purchase agreement.

SECTION 7. That this ordinance shall take effect immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 8TH DAY OF JULY, 2008.



Grace Merkes, Assembly President

ATTEST:



Johni Blankenship, Borough Clerk



Yes: Fischer, Gilman, Knopp, Long, Martin, Smith, Sprague, Superman, Merkes
No: None
Absent: None