



KENAI PENINSULA BOROUGH

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JOHN J. WILLIAMS
BOROUGH MAYOR

MEMORANDUM

TO: Milli Martin, Assembly President
Kenai Peninsula Borough Assembly Members

THRU: *jdl* Dave Carey, Borough Mayor
WB Max Best, Planning Director

FROM: *MB* Marcus A. Mueller, Land Management Officer
for mm.

DATE: November 6, 2008

SUBJECT: Ordinance 2008- 26, Authorizing Conveyance of 0.49 Acres More or Less of Land to the City of Homer

The Homer City Council considered, for its part, acceptance of the subject parcel of land along Kachemak Drive through City Ordinance 2008-44. The council failed to enact that ordinance, thereby indicating that the city is at this time not an interested purchaser of the property. Therefore, the Administration recommends that the Assembly defeat Ordinance 2008-26.

When water and sewer utilities are put in place, the public purpose for which the borough retained this property will effectively be cured, making this property eligible for general disposal. With the proposed sewer and water assessment being \$28,586, and with the Borough not having any plans of its own to make use of those utilities or the property in general, the Borough will have to seriously consider selling the property. The property will likely not have a value equal to the cost of the water and sewer improvement.

At the meeting of September 16, 2008, the Assembly considered testimony that suggested that certain landholding conservation organizations, such as Kachemak Moose Habitat, Inc. might be interesting in acquiring the property in order to preserve valuable moose habitat or wetland values. In follow-up discussions with Kachemak Moose Habitat, Inc., it was found that they would not be interested in acquiring the property.

If this ordinance is defeated, Land Management will pursue discussions with the City of Homer and any interested parties in an attempt to resolve this matter.

**CITY OF HOMER
HOMER, ALASKA**

*Final
9/22/08*
City Manager

ORDINANCE 08-44

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HOMER, ALASKA, PURCHASING TAX FORECLOSURE PROPERTY, KENAI PENINSULA BOROUGH (KPB) TAX PARCEL NUMBER 179-080-50, AND DESIGNATING ITS USE FOR PUBLIC PURPOSE AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE APPROPRIATE DOCUMENTS.

WHEREAS, Pursuant to Homer City Code 18.06.010 Real property acquisitions, authority. a. The City may acquire, own and hold real property within or outside the City boundaries by any lawful means or conveyance, and may exercise all rights and powers in the acquisition, ownership and holding of real property as if the City were a private person; and

WHEREAS, The KPB Land Trust Fund paid \$386.83 to the Borough's General Fund for unpaid taxes and interest upon KPB tax parcel number 179-080-50 and has proposed to convey by quitclaim deed said parcel to the City of Homer for \$386.83; and

WHEREAS, The Kachemak Drive Phase II Water and Sewer Project includes this property, making it advantageous for the KPB to convey the parcel to the City of Homer to avoid a Local Improvement District (LID) assessment; and

WHEREAS, Pursuant to the provisions of Homer City Code 18.06.030, 18.06.042, and 18.06.044 Real property acquisitions, designation for public use, and authorization for the appropriation, KPB tax parcel number 179-080-50 shall be retained for a public purpose and classified as "undesignated".

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. The City of Homer hereby appropriates funds as follows:

<u>Account No.</u>	<u>Description</u>	<u>Amount</u>
100.000.1610	General Fund	\$386.83

<u>Expenditure</u>	<u>Description</u>	<u>Amount</u>
100.000.1610	Purchase / KPB Parcel Number 179-080-50	\$386.83

Section 2. The City Manager is hereby authorized to execute the appropriate documents for the purchase of property described as follows:

Record Owner	KPB Tax Parcel Number	Legal Description	Borough Assessed Property Value	Acreage
Kenai Peninsula Borough	179-080-50	T 6S R 13W SEC 14 Seward Meridian HM S1/2 OF GOVT LOT 30 LYING WEST OF KACHEMAK DR	\$2,200.00	0.49 acre

Section 3. This is a budget amendment ordinance, is temporary in nature, and shall not be codified.

ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA this _____ day of _____, 2008.

CITY OF HOMER

JAMES C. HORNADAY, MAYOR

ATTEST:

JO JOHNSON, CMC, CITY CLERK

YES:

NO:

ABSTAIN:

ABSENT:

First Reading:

Public Hearing:

Second Reading:

Effective Date:

Reviewed and approved as to form:

Walt Wrede, City Manager

Thomas F. Klinkner, City Attorney

Date: _____

Date: _____

Session 08-27 a Regular Meeting of the Homer City Council was called to order on September 22, 2008 at 7:00 p.m. by Mayor Pro Tempore Dennis Novak at the Homer City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska, and opened with the Pledge of Allegiance.

PRESENT: COUNCILMEMBERS: HEIMBUCH, HOWARD, NOVAK,
ROBERTS, SHADLE, WYTHE

STAFF: CITY MANAGER WREDE
CITY CLERK JOHNSON
CITY PLANNER ABOUD

Council met as a Committee of the Whole from 4:00 p.m. to 5:30 p.m. Agenda items were: 2009-2014 Capital Improvement Plan and FY 2010 Legislative Requests, Resolution 08-97, A Resolution of the Homer City Council to Include a Disc Golf Course at Jack Gist Park and Regular Meeting Agenda items. Council met for a Special Meeting from 5:45 p.m. to 6:23 p.m. Agenda item was Main Street Rehabilitation / Main Street & Sterling Hwy. Intersection.

Mayor Hornaday was absent from the meeting.

Department Heads may be called upon from time to time to participate via teleconference.

AGENDA APPROVAL

(Addition of items to or removing items from the agenda will be by unanimous consent of the Council. HCC 1.24.040.)

The agenda was approved by consensus of the City Council with the following changes:

[1]
City Manager's Report, New Business – Memorandum 08-132 – Correspondence from James C. Hornaday.

Mayor Hornaday withdrew his resignation from the Mayor's seat. Per the City Attorney, Mayor Hornaday is allowed to withdraw his resignation prior to Council accepting it. Any action taken by Council on Memorandums 08-132 and 08-133 would be unlawful.

Councilmember Shadle declared Councilmember Heimbuch's conflict of interest. Councilmember Heimbuch is a candidate for the Mayoral race October 7, 2008. Council did not express a conflict of interest. Mayor Pro Tempore Novak ruled a potential for conflict of interest exists and excused Councilmember Heimbuch.

Councilmember Heimbuch stepped down from his seat.

Memorandums 08-132 and 08-133 were removed from the agenda.

The agenda as amended was approved by consensus of the Council.

PUBLIC COMMENTS UPON MATTERS ALREADY ON THE AGENDA

Roberta Highland, city resident and President of Kachemak Bay Equestrian Association, voiced support of Resolution 08-103. The association owns and runs Cottonwood Horse Park and applied for the Kenai Peninsula Borough property tax exemption and would like the city property tax exemption (\$360 - \$380) too. They will continue fundraising efforts to complete the purchase of the property, with \$145,000

asked for support on the MRI building.

Rika Mouw, city resident, asked Council to remove the Deep Water Dock (DWD) expansion off the CIP list. There has been no public dialogue about the expanded DWD and consequences that come with a facility like it. There is concern that a DWD will cost millions of dollars to build and maintain. It would cause more loss of habitat in designated critical habitat areas. Additionally, it would produce more ship traffic in Kachemak Bay and more truck traffic in Homer and on the Spit in the summer tourism time. There is no evidence freight being delivered to Homer would make products less expensive here. It is a question of the compatibility of increased industrial use on the Spit combined with tourism.

Fred Lau asked if there were questions on the handout at the last meeting for the senior housing project. If a non profit or senior center is not included on the CIP list there are no other alternatives. They are not asking the City for funding, placing the project on the CIP list is important to at least being able to go to the Legislature.

Cinda Eckert, city resident and President of Homer Hockey Association, supports the ice rink floor upgrade. She urged Council to keep nonprofit projects on the CIP list, as they are dependent on support of the City. Quality of life is dependent on the projects. It is important to be on the CIP for support of legislative funds.

Bill Smith expressed support for the MRI for the hospital. There is a notch where the MRI trailer is parked that needs to be filled in with an extra building. It is a keystone project, as it is a fully modern facility with the least cost to taxpayers. Keeping the MRI on the list allows funding from the Legislature and other bodies.

Leonard Wells, city resident, voiced support of all nonprofit projects going to the Legislature. As to a DWD, it is his understanding it is needed for the Coast Guard and for a more tourist boat friendly area, capable of larger tourist boats. A DWD would also be available for commercial venues. Industry would provide twelve months of revenue per year versus two or three months of revenue for tourists.

Nicky Szarzi, Alaska Department of Fish and Game, encouraged Council to put the fishing lagoon on the CIP short list. Riprap should be replaced on the north berm of the lagoon to keep it from breaching in high storms from the east. Dredge spoils are washed into the lagoon, resulting in the lagoon filling with sediments.

ORDINANCE(S)

A. **Ordinance 08-44**, An Ordinance of the City Council of Homer, Alaska, Purchasing Tax Foreclosure Property, Kenai Peninsula Borough (KPB) Tax Parcel Number 179-080-50, and Designating its Use for Public Purpose and Authorizing the City Manager to Execute the Appropriate Documents. City Manager. Recommended Dates: Introduction August 25, 2008, Public Hearing September 8, 2008 and Second Reading September 22, 2008.

NOVAK/SHADLE - MOVED TO POSTPONE UNTIL AFTER THE BOROUGH ASSEMBLY RULES ON ALLOWING THE PARCEL TO GO TO THE CITY.

City Manager Wrede said there may be value in sending a signal to the Borough that the City wants the parcel or not. In answer to questions from the September 8th Council meeting, the LID (Local Improvement District) water/sewer assessment is \$28,586 and the City could sell the property in the future.

Councilmember Roberts asked if a non-profit or land protection group were to purchase the property, would the LID assessment transfer? City Manager Wrede stated if the Borough retained and sold the parcel to a conservation group the City would pay the assessment.

Asked by Councilmember Heimbuch if the City Manager had an objection to the postponement, Mr. Wrede answered he does not. He added if Council decides it does not want the parcel, the issue is resolved for the Borough from taking up at a future meeting.

VOTE: (postponement) NO. HEIMBUCH, ROBERTS, WYTHE, SHADLE, HOWARD, NOVAK

Motion failed.

HEIMBUCH/SHADLE – MOVED TO ADOPT BY READING OF TITLE ONLY.

Council discussed the assessment that would be absorbed by the City if the parcel was purchased. Councilmembers Wythe and Shadle expressed their objections of the Borough passing on an expense to the community to avoid paying the assessment.

Mayor Pro Tempore Novak believes the Borough had the impression the parcel might be for public purpose. Councilmember Roberts is agreeable to taking the property and would not vote to sell it as it is valuable for moose habitat. She would want the City to examine it closely.

Councilmember Shadle stated it is not in the City's best interest to take land from taxpayers; it should be back on the tax rolls to lessen the burden. If we do take it, we need to automatically sell it.

Mayor Pro Tempore Novak reflected there was an attempt to develop the property at one time and the Corps of Engineers said it cannot be filled.

Councilmember Heimbuch asked what the property tax receipts were. City Manager Wrede stated currently the tax receipts are low due to wetlands and development issues. When water and sewer lines are installed it makes the parcel more developable. It is on Kachemak Drive and close to the airport and may be zoned for commercial use.

Councilmember Wythe commented it comes back to the residents of the City of Homer absorbing a \$29,000 assessment that the Borough has decided to step out of paying. If we could purchase the property for \$300 and at a later date resell and recapture \$30,000, then we would have provided a public purpose. The property has no value when the assessment is passed on to the citizens.

VOTE: YES. NOVAK, HEIMBUCH, ROBERTS

VOTE: NO. WYTHE, SHADLE, HOWARD

Motion failed.

~~B. **Ordinance 08-46**, An Ordinance of the City Council of Homer, Alaska, Amending the FY 2008 Operating Budget by Authorizing the Transfer of \$27,445 from the General Fund to the Public Works Department for the Purchase of Caselle Software. City Manager. Recommended Dates: Introduction September 22, 2008, Public Hearing and Second Reading October 13, 2008.~~

~~Memorandum 08-135 from Planning Technician as backup.~~

~~Mayor Pro Tempore Novak called for a motion to adopt.~~