

Introduced by: Mayor
Date: 10/14/08
Hearing: 11/18/08
Action: Enacted as Amended
Vote: 7 Yes, 0 No, 2 Absent

**KENAI PENINSULA BOROUGH
ORDINANCE 2008-32**

**AN ORDINANCE AUTHORIZING THE NEGOTIATED SALE AT OTHER THAN FAIR
MARKET VALUE OF CERTAIN REAL PROPERTY HAVING BEEN LEASED BY
SNOWSHOE GUN CLUB CONTAINING 186 ACRES MORE OR LESS TO THE
SNOWSHOE GUN CLUB**

WHEREAS, the Kenai Peninsula Borough (KPB) owns the property described in Section 1 of this ordinance; and

WHEREAS, the Snowshoe Gun Club, Inc. (SGC) has leased the subject property from the City of Kenai from 1971-1984 and from KPB from 1985-2005 and now operates under a land use permit, and;

WHEREAS, SGC is in good standing with the former lease and current permit; and

WHEREAS, SGC desires to purchase the property; and

WHEREAS, the KPB assessing department determined the fee simple fair market value of the property to be \$126,600 on June 26, 2008; and

WHEREAS, SGC is an IRS recognized 501(c)(7) public purpose non-profit corporation; and

WHEREAS, SGC has made \$24,600 in lease payments to the Kenai Peninsula Borough for the subject property; and

WHEREAS, entering into a negotiated sale of the property to SGC for shooting range purposes, subject to a deed restriction for that use provides for the continuation of a publicly beneficial facility, while reducing the Borough's liability toward such activities; and

WHEREAS, the KPB Planning Commission at its regularly scheduled meeting of October 27, 2008 recommended enactment by unanimous consent;

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

SECTION 1. That selling 186 acres described as: Govt Lot 1 and NE1/4NW/14 Section 30 and Tract B ASLS 2005-7 according to Plat No. 2007-1 Kenai Recording District, and Govt Lot 4 and SE1/4SW1/4 Section 30 all within T6N, R10W, S.M. to the Snowshoe Gun Club, Inc. (SGC) at other than fair market value, pursuant to KPB 17.10.100 (I) and 17.10.120 (D) is in the best interest of the borough based on the following findings of facts:

- A. A restriction to the property's title which ensures that the property is used for a public purpose, as described in Section 4 below, likely affects the market value of that title.
- B. The proposed reduction in the sale price from the appraised fee simple fair market value is the result of negotiations between KPB administration and SGC and is intended to represent an approximation of fair market value of the encumbered property, taking into consideration that the SGC has already paid KPB \$24,600 in lease payments.
- C. The continuation of the safe, organized, shooting range facilities on the Central Peninsula benefits the health and safety of area residents.
- D. The property serves the public purposes of providing firearms handling facilities for firearms safety instruction and use by the general public and law enforcement agencies.

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

- 1. Special circumstances or conditions exist.
 - A. 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 negotiated sale to the SGC 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. 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. For this negotiated sale, the notice requirement 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. The planned use as a firearms shooting range has been demonstrated continuously by SGC since 1971 to be compatible with the site and other surrounding uses.
 - B. 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 17.10 or to protect the public welfare.

SECTION 3. Based on the foregoing, the mayor is hereby authorized, pursuant to KPB 17.10.100(I) to sell and convey, through quitclaim deed, the land described in Section 1 above to SGC for \$70,000 (Seventy Thousand Dollars) subject to the terms and conditions of this ordinance. The authorization is for sale solely to SGC, and it may not assign any rights to negotiate or enter an agreement for lease to any other person or entity.

Financing of the sale will be offered at the prime rate on the date of enactment of this ordinance plus 2 percent. A 10 percent down payment will be required at the time of closing. The period for total payment shall be no more than 10 years with payments to be in equal installments monthly, semi-annually, or yearly. The sale shall be secured by a first deed of trust against the property.

The purchaser shall be responsible for acquiring title insurance and shall pay all fees associated with this sale including recording fees, closing costs, escrow setup fees, annual escrow fees, collection fees, surveying and platting fees to the extent applicable, and other associated fees for this sale. All other applicable terms and conditions of KPB Chapter 17.10 shall apply to this sale unless inconsistent with this ordinance.

SECTION 4. The property conveyed to SGC is further subject to the restriction that the land conveyed by this deed shall be used solely for pleasure, recreation and hobby associated with amateur shooting and firearms and for firearms education and related activities. Grantee shall have the right to regulate use and may restrict use to its members, provided that membership is open to anyone who fulfills the requirements of membership as provided in the Bylaws of SGC as written on November 18, 2008, regardless of race, color, religion or sex. In the event grantee does not use, or ceases to use, the land conveyed by this deed as specified herein, grantor or grantor's assigns may reenter and repossess the premises.

SECTION 5. 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.
 - A. KPB 17.10.080(A) states, 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 for an existing use (e.g. firearms shooting range since 1971) does not accomplish these purposes.
 - B. The land use will remain unchanged.
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. This exception to classification requirement is not necessary to preserve a substantial property right, and the assembly hereby authorizes exception to that finding requirement. For this negotiated sale to SGC for shooting range purposes, the existing and future land use is being considered through this ordinance's public 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. A shooting range land use currently exists on the property. Such land use is deemed to be beneficial to residents of the Kenai Peninsula Borough and the history of such use at this location has demonstrated its compatibility with the area and its ability to function safely.

SECTION 6. The mayor is authorized to sign any documents necessary to effectuate the intents and purposes of this ordinance.

SECTION 7. The Snowshoe Gun Club, Inc. shall have until 180 days after enactment of this ordinance to accept this offer by execution of a purchase agreement.

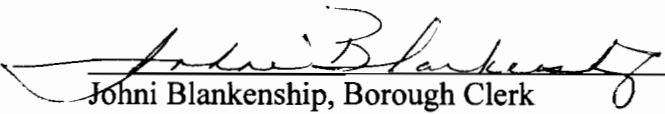
SECTION 8. That this ordinance shall take effect immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 18TH DAY OF NOVEMBER, 2008.



Milli Martin, Assembly President

ATTEST:



John Blankenship, Borough Clerk



Yes: Knopp, Long, Pierce, Smalley, Sprague, Superman, Martin
No: None
Absent: Fischer, Smith