

Introduced by: Mayor
Date: 02/03/09
Hearing: 03/03/09
Action: Enacted as Amended
Vote: 9 Yes, 0 No, 0 Absent

**KENAI PENINSULA BOROUGH
ORDINANCE 2009-10**

**AN ORDINANCE AUTHORIZING A NEGOTIATED SALE AND EXCHANGE OF
CERTAIN LANDS IN THE CITY OF HOMER WITH LEROY AND DORIS CABANA
AT FAIR MARKET VALUE**

- WHEREAS,** the Kenai Peninsula Borough (KPB) owns three parcels of land adjacent to property owned by Leroy and Doris Cabana; and
- WHEREAS,** the KPB acquired a strip of Sterling Highway frontage from the University of Alaska pursuant to Resolution 2008-030 that also partially fronts the Cabana's property; and
- WHEREAS,** the Cabanas' driveway is across this strip of KPB land; and
- WHEREAS,** the Cabanas have offered to purchase a portion of the land upon which their driveway is located; and
- WHEREAS,** prior to acquiring said strip of land, KPB contemplated the eventual negotiated sale to the Cabanas of that 0.597-acre portion fronting the Cabana property; and
- WHEREAS,** the 0.597 acre portion of parcel 173-160-45 was appraised by Derry & Associates in November 2007 at \$12,500; and
- WHEREAS,** in the course of surveying the property, it was discovered that encroachments also exist on KPB land along the east side of the Cabana property; and
- WHEREAS,** a proposed modification of the boundary line between the Cabana and the KPB parcels would resolve the encroachment and provide a useful upland tie between two KPB owned properties; and
- WHEREAS,** such a boundary modification can be achieved through a 0.137-acre equal area exchange and would be beneficial to both Cabanas and the Borough; and
- WHEREAS,** the KPB Planning Commission at its regularly scheduled meeting of February 9, 2009 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 a 0.597 +/- acre portion of KPB land at fair market value and exchanging 0.137 +/- acre portion of KPB land for a 0.137 +/- acre portion of Cabana property within Section 15, T6S, R14W, S.M., substantially as shown on Exhibit A, with Leroy and Doris Cabana pursuant to KPB 17.10.100 (C) & (I) is in the best interest of the Borough.

SECTION 2. That the best interest of the Borough finding is based on the following facts:

- a. The Cabanas are the only practical purchasers of the strip of property between their existing lot and the highway.
- b. The negotiated sale price is the fair market value as determined by Derry and Associates in November 2007.
- c. The sale price partially offsets the Borough's cost of purchasing the larger property.
- d. The land to be exchanged is of equal area, and the exchange will add value to each party's landholdings for their respective purposes.
- e. The final configuration of property lines will provide an improved upland connection between two large borough-owned parcels.
- f. The proposed reconfiguration of property lines would eliminate the Cabana structure encroachment on KPB land.
- g. This negotiated sale and exchange benefits both parties fairly.

SECTION 3. Based on the foregoing, the mayor is hereby authorized, pursuant to KPB 17.10.100 (C) & (I) to convey by quitclaim deed 0.597 +/- acres and 0.137 +/- acres of land described in Section 1 above to Leroy and Doris Cabana for \$12,500 and in exchange for 0.137 +/- acres substantially as shown on Exhibit A.

SECTION 4. That pursuant to KPB 17.10.100(I) the land to be conveyed is excluded from the requirements of classification, deposit into the Land Bank, and notice of disposition.

SECTION 5. That the property acquired is subject to city zoning ordinances and therefore the proposed classification is "rural" to provide for the current Rural Residential zoning and allow for future zoning changes.

SECTION 6. That after the property is replatted the mayor is authorized to execute a sale and exchange agreement substantially in the form of the one accompanying this ordinance and any and all documents necessary to effectuate this ordinance.

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

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 3RD DAY OF MARCH, 2009.



Milli Martin, Assembly President

ATTEST:



John Blankenship, Borough Clerk



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