



KENAI PENINSULA BOROUGH

PLANNING DEPARTMENT

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
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DAVID R. CAREY
BOROUGH MAYOR

MEMORANDUM

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

THRU:  David R. Carey, Borough Mayor

FROM:  Max J. Best, Planning Director

DATE: March 27, 2009

SUBJECT: Ordinance 2009-14; Authorizing a negotiated lease at fair market value of Tract 5 Kalbea Tract 5 Subdivision containing 18.57 acres more or less to Marathon Oil Company for Oil and Gas Operation

The Planning Commission reviewed the subject ordinance during their regularly scheduled March 27, 2009 meeting. A motion to recommend enactment of the ordinance passed by unanimous consent.

Draft, unapproved minutes of the subject portion of the meeting are attached.

AGENDA ITEM F. PUBLIC HEARINGS

3. Ordinance 2009-14; Authorizing a negotiated lease at fair market value of Tract 5 Kalbea Tract 5 Subdivision containing 18.57 acres more or less to Marathon Oil Company for Oil and Gas Operation

Memorandum reviewed by Marcus Mueller

PC Meeting: 3/23/09

The Borough owned property known as Tract 5 Kalbea Tract 5 Subdivision is subject to federal Oil and Gas Lease Serial A-028055 and State of Alaska, Department of Natural Resources, Gas Storage Lease ADL 390821 which are held by Marathon Oil Company. Marathon's Pad 34-31 is situated on Kalbea Tract 5 and contains improvements and uses authorized by its subsurface interest as well as improvements and uses which require authorization by the Borough as the surface owner.

To reconcile the situation, Land Management is negotiating a lease with Marathon at fair market value. The annual rent would commence at \$15,000 per annum and increase 3 percent annually. The initial term is proposed for 20 years with up to 5-year renewals at Marathon's option. The proposed term is in recognition of Marathon's long-term interest in utilizing the Kenai River Unit as well as this property's long-term functional roles in managing Marathon's operations in the Cook Inlet Basin.

In order to not create conflict between the respective uses authorized by each, the subsurface owner and the surface owner (KPB), Land Management recommends excepting the strict code requirement KPB 17.10.240 hazardous waste and adopting the alternative language proposed in Section IV (7) of the draft lease, as is provided in the ordinance. The lease will be provided to the Assembly at public hearing of this ordinance as it is still in negotiations.

Your consideration of this ordinance is appreciated.

END OF MEMORANDUM

Chairman Bryson opened the meeting for public comment. Seeing and hearing no one wishing to speak, Chairman Bryson closed the public comment period and opened discussion among the Commission.

MOTION: Commissioner Murphy moved, seconded by Commissioner Gross to recommend enactment of Ordinance 2009-14.

Commissioner Isham stated that both DOT and Alaska Railroad have clauses in their contracts when they lease land which requires the leaser to comply with all the State and Federal environmental regulations. They also require that a baseline environment site assessment be done if there was any hazardous material on the property. This site assessment is done every time a lease was renewed or has changed hands just to keep track where any contamination lies, etc. Commissioner Isham asked if those requirements were being added to the proposed lease. Mr. Mueller replied there was contamination known to be on this site which consisted of old waste cells. There is a site characterization report that has been reiterated over the years. He stated this ordinance would provide for a deviation from what was required by the Code in terms of handling solid waste because there superior oil and gas interests. They would not be able to trump those interests with their surface interest. Staff merely acknowledges that there are those interests through their subsurface. Mr. Mueller stated the leaser is required to comply with all State and Federal laws. He commented there are a number of provisions that speak to environmental issues within the lease.

Commissioner Isham understood that we were relying on the State to take care of most of the contamination and that there was no actual clause in the lease requiring them to do a site assessment through renewals. Mr. Mueller replied that the applicants were already required to do that. They are relying on the State and Federal regulations. The Borough was not an environmental regulator but relies on the laws that are in place.

Commissioner Isham stated that DOT and Alaska Railroad were also not in the environmental business but they use the environmental site assessment to protect their assets. He would like to see a requirement like that in this lease.

Commissioner Isham asked if there was an abandonment plan in place when the lease is over. Mr. Mueller appreciated the comments. He would rely on Section 7 for lease requirements when the lease ended and would be worked out between Marathon Oil and future Borough staff.

There being no further comments or questions, the commissioners proceeded to vote.

VOTE: The motion passed by unanimous consent.

BRYSON YES	CARLUCCIO ABSENT	COLLINS ABSENT	FOSTER YES	GROSS YES	ISHAM YES	JOHNSON ABSENT
LOCKWOOD YES	MARTIN YES	MCCLURE YES	MURPHY YES	PETERSEN YES	TAURIAINEN YES	10 YES 3 ABSENT

AGENDA ITEM F. PUBLIC HEARINGS

- Ordinance 2008-19-43; Authorizing the acquisition of certain real property at the corner of Kalifornsky Beach Road and Ciechanski Drive for a Central Emergency Service Fill site, a future fire station and other government purposes and appropriating funds for the acquisition.

Memorandum reviewed by Marcus Mueller

PC Meeting: 3/23/09

Central Emergency Services (CE5) has developed an Insurance Services Office (ISO) plan to optimize fire response capabilities within the service area. Additionally, the Land Management Division conducted an analysis to determine optimal locations for future fire stations to ensure proper placement for maximum response coverage. CES intends to acquire sites that are appropriate for future fire stations in the long term, and to develop those sites in the near term with high-volume water supply capabilities as implementation of its ISO plan.

CES, Land Management, Capital Projects, and the administration have worked together to identify an appropriate CES site in the Ciechanski Area. The property identified is a 30.3-acre parcel, of which 4 acres are needed for CES's operations. CES will contribute \$195,000 toward the property which is based on a 70/30 size adjustment on the overall land purchase. CES previously budgeted \$120,000 in FY09 for this land purchase; the ordinance would appropriate an additional \$75,000 from the CES Capital Projects Fund. The Land Trust Fund will pay \$330,000 for the remaining 26± acres and hold the property for future borough needs. Land Management intends to dedicate a matching dedication to Phillips Avenue from the parcel. This will allow for the construction of alternative egress for the Willowbrook Subdivision area. Additionally, this property is centrally located on Kalifornsky Beach Road midway between the business districts of Kenai and Soldotna. The property has excellent potential for community development and to serve future government functions which are goals of the Land Trust as outlined in the FY09 budget document. The acquisition of the acreage is an investment of the Land Trust to enhance the Borough's landholdings in the rapidly developing K-Beach area.

The ordinance would authorize the acquisition of a 30.3-acre parcel at the corner of K-Beach Road and Ciechanski 'from Lynn C. Martinez. The proposed purchase price is \$525,000 which is based on the fair market value appraised by Derry and Associates.

END OF MEMORANDUM

Chairman Bryson asked if a 4 acre tract of land could be found rather than a 30 acre parcel. Mr. Mueller replied this site was ideal which leaves a 26 acre remainder parcel. The interest that the Land Trust Fund has in purchasing this parcel is that the Borough received 155,000 acres of State lands that range in size, shape and location. Of that entitlement there was not a whole lot that fits the bill for actual Borough services. He stated this piece of property was well suited for future municipal uses and is located in one of the fastest growing areas of the Peninsula. The property is suited for anything other than a ski hill. From a land management philosophy Mr. Mueller considers this as a reinvestment of municipal entitlement back into land resources. One of the functions of Land Management was to provide lands for future Borough uses.