



KENAI PENINSULA BOROUGH

PLANNING DEPARTMENT

144 North Binkley Street • Soldotna, Alaska 99669-7520

PHONE: (907) 714-2200 • **FAX:** (907) 714-2378

Toll-free within the Borough: 1-800-478-4441, Ext. 2200

www.borough.kenai.ak.us

**DAVID R. CAREY
BOROUGH MAYOR**

MEMORANDUM

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

THRU: *DL Carey* David R. Carey, Borough Mayor

FROM: *MJB* Max J. Best, Planning Director

DATE: July 23, 2009

SUBJECT: Ordinance 2009-39: Authorizing Retention or Sale of Certain Real Property Obtained by the Kenai Peninsula Borough through Tax Foreclosure Proceedings

The Planning Commission reviewed the subject ordinance during their regularly scheduled July 20, 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 E. PUBLIC HEARINGS

- 5. Ordinance 2009-39: Authorizing Retention or Sale of Certain Real Property Obtained by the Kenai Peninsula Borough through Tax Foreclosure Proceedings

Memorandum & Draft Memorandum reviewed by Marcus Mueller PC Meeting: 7/20/09

Through tax foreclosure proceedings pursuant to AS 29.45.290 et seq. the borough has obtained a Clerk's Deed to the real property listed in the subject ordinance. Notice of sale will be sent to the last owners of record by certified mail within five days after first publication of the hearing on the ordinance as per AS 29.45.460(c).

A preliminary list of parcels proposed for the 2009 auction was sent for review and comment to the KPB School District, all KPB administrative departments, and KPB Service Areas. The subject ordinance authorizes the retention of 19 parcels for public purposes with recommended classifications. The ordinance also authorizes the sale of 30 parcels by public outcry auction. The number of parcels to be retained or sold will change if taxes are paid. Please reference the aerial photos of parcels to be sold listed in the ordinance.

The tax foreclosure auction is scheduled for October 24, 2009, in the Soldotna High School Auditorium.

DRAFT MEMORANDUM AMENDMENT

Nine substandard lots originally proposed for retention by Ordinance 2009-39 are also being considered for the substandard lot sale under Ordinance 2009-40 (Mayor) Substitute. In order to preserve rights of the last record owner to the point of sale, the following amendments would remove the nine lots from the retention list and add them to the sale list and authorize their sale under the procedures of Ordinance 2009-40 (Mayor) Substitute as opposed to the general outcry auction.

Considerations of these amendments, which additionally relate to Ordinance 2009-40, are greatly appreciated.

- Amend Section 1 to remove Parcel Nos. 057-481-01, 057-481-27, 133-130-15, 133-140-11, 133-140-12, 133-140-13, 133-150-09, 133-150-10, and 133-150-11 from the public purpose retention list as follows:

SECTION 1. That the following real property is approved, accepted and hereby designated as foreclosed parcels retained for public purpose with a recommended applicable classification:

PROPERTIES TO BE RETAINED FOR A PUBLIC PURPOSE				
PARCEL NO.	LEGAL DESCRIPTION & GENERAL LOCATION	LAST OWNER OF RECORD	REASON FOR RETENTION	APPLICABLE CLASSIFICATION
012-040-17	Lot 18, Block 9, AURORA HEIGHTS S/D, filed under Plat No. K-1467, Kenai Recording District: Nikiski	Gnagy, Elizabeth C	Less than 40,000 s.f.	Government

PROPERTIES TO BE RETAINED FOR A PUBLIC PURPOSE				
PARCEL NO.	LEGAL DESCRIPTION & GENERAL LOCATION	LAST OWNER OF RECORD	REASON FOR RETENTION	APPLICABLE CLASSIFICATION
012-080-46	Lot 6B, Block 11, AURORA HEIGHTS S/D, Addition to Block 11 & Replat Lot 7, Block 11, filed under Plat No. 78-197, Kenai Recording District: Nikiski	Johnson, Duaine E	Less than 40,000 s.f.	Government
012-150-04	Lot 4, Block 1, T'AIR DEL MAR S/D, filed under Plat No. K-1661, Kenai Recording District: Nikiski	Cheeks, Willie Austin	Less than 40,000 s.f.	Government
012-150-05	Lot 5, Block 1, T'AIR DEL MAR S/D, filed under Plat No. K-1661, Kenai Recording District: Nikiski	Cheeks, Willie Austin	Less than 40,000 s.f.	Government
014-070-05	Lot 1, Block 4, GALEN GRAY S/D, filed under Plat No. K-899, Kenai Recording District: Nikiski	Johnson, Hubert & Jennie Lee	Less than 40,000 s.f.	Government
049-180-19	Lot 17, Block 3, HIGHLANDS S/D, filed under Plat No. K-1542, Kenai Recording District: Kenai	Carsner, William	Less than 40,000 s.f.	Government
057-270-09	Lot 9, Block 1, BIG EDDY S/D, Part 2, filed under Plat No. K-1674, Kenai Recording District: Ridgeway	Levine, Estrada, & Moore	Less than 40,000 s.f.	Government
057-481-01	LOT 62, HODGSON S/D, FILED UNDER PLAT NO. K-1382, KENAI RECORDING DISTRICT: RIDGEWAY	GRAHAM, BUD	LESS THAN 40,000 S.F.	GOVERNMENT
057-481-27	LOT 63, HODGSON S/D, FILED UNDER PLAT NO. K-1382, KENAI RECORDING DISTRICT: RIDGEWAY	GRAHAM, BUD	LESS THAN 40,000 S.F.	GOVERNMENT
065-041-12	Lot 9, GATTEN S/D, filed under Plat No. K-995, Kenai Recording District: Sterling	Harper, Donald L	Less than 40,000 s.f.	GOVERNMENT
133-130-15	LOT 4, BLOCK 7, KASILOF TOWNSITE, FILED UNDER U.S. SURVEY 3564, KENAI RECORDING DISTRICT: KASILOF	QUAN, LA LAY WOO	LESS THAN 40,000 S.F.	GOVERNMENT
133-140-08	Lot 7, Block 2, KASILOF TOWNSITE, filed under U.S. Survey 3564, Kenai	Quan, La Lay Woo	Less than 40,000 s.f.	Government

PROPERTIES TO BE RETAINED FOR A PUBLIC PURPOSE				
PARCEL NO.	LEGAL DESCRIPTION & GENERAL LOCATION	LAST OWNER OF RECORD	REASON FOR RETENTION	APPLICABLE CLASSIFICATION
	Recording District: Kasilof			
133-140-09	Lot 6, Block 2, KASILOF TOWNSITE, filed under U.S. Survey 3564, Kenai Recording District: Kasilof	Quan, La Lay Woo	Less than 40,000 s.f.	Government
133-140-11	LOT 4, BLOCK 2, KASILOF TOWNSITE, FILED UNDER U.S. SURVEY 3564, KENAI RECORDING DISTRICT. EXCEPTING PORTION CONVEYED TO STATE (BK 44/PG 153) AND CORRECTED (BK 45/PG 46): KASILOF	QUAN, LA LAY WOO	LESS THAN 40,000 S.F.	GOVERNMENT
133-140-12	LOT 3, BLOCK 2, KASILOF TOWNSITE, FILED UNDER U.S. SURVEY 3564, KENAI RECORDING DISTRICT. EXCEPTING PORTION CONVEYED TO STATE (BK 44/PG 153) AND CORRECTED (BK 45/PG 46): KASILOF	QUAN, LA LAY WOO	LESS THAN 40,000 S.F.	GOVERNMENT
133-140-13	LOT 2, BLOCK 2, KASILOF TOWNSITE, FILED UNDER U.S. SURVEY 3564, KENAI RECORDING DISTRICT. EXCEPTING PORTION CONVEYED TO STATE (BK 44/PG 153) AND CORRECTED (BK 45/PG 46): KASILOF	QUAN, LA LAY WOO	LESS THAN 40,000 S.F.	GOVERNMENT
133-150-09	LOT 8, BLOCK 13, KASILOF TOWNSITE, FILED UNDER U.S. SURVEY 3564, KENAI RECORDING DISTRICT: KASILOF	QUAN, LA LAY WOO	LESS THAN 40,000 S.F.	GOVERNMENT
133-150-10	LOT 7, BLOCK 13, KASILOF TOWNSITE, FILED UNDER U.S. SURVEY 3564, KENAI RECORDING DISTRICT: KASILOF	QUAN, LA LAY WOO	LESS THAN 40,000 S.F.	GOVERNMENT

PROPERTIES TO BE RETAINED FOR A PUBLIC PURPOSE				
PARCEL NO.	LEGAL DESCRIPTION & GENERAL LOCATION	LAST OWNER OF RECORD	REASON FOR RETENTION	APPLICABLE CLASSIFICATION
133-150-11	LOT 6, BLOCK 13, KASILOF TOWNSITE, FILED UNDER U.S. SURVEY 3564, KENAI RECORDING DISTRICT: KASILOF	QUAN, LA LAY WOO	LESS THAN 40,000 S.F.	GOVERNMENT

- Amend Section 2 to include reference to substandard lot sale procedures and to include Parcel Nos. 057-481-01, 057-481-27, 133-130-15, 133-140-11, 133-140-12, 133-140-13, 133-150-09, 133-150-10, and 133-150-11 on that list on as follows:

SECTION 2. It is hereby determined that a public need for the real properties listed below does not exist and the properties may be sold by Outcry Auction, or by substandard lot sale procedures as provided by separate ordinance.

PROPERTIES TO BE SOLD BY SUBSTANDARD LOT SALE PROCEDURES				
PARCEL NO	LEGAL DESCRIPTION	GENERAL LOCATION	ACRES	LAST OWNER OF RECORD
<u>057-481-01</u>	<u>Lot 62, HODGSON S/D filed under Plat No. K-1382, Kenai Recording District</u>	<u>Ridgeway</u>	<u>0.17</u>	<u>Graham, Bud</u>
<u>05-481-27</u>	<u>Lot 63, HODGSON S/D filed under Plat No. K-1382, Kenai Recording District</u>	<u>Ridgeway</u>	<u>0.17</u>	<u>Graham, Bud</u>
<u>133-130-15</u>	<u>Lot 4, Block 7, KASILOF TOWNSITE, filed under U.S. Survey 3564, Kenai Recording District</u>	<u>Kasilof</u>	<u>0.26</u>	<u>Quan La Lay Woo</u>
<u>133-140-11</u>	<u>Lot 4, Block 2, KASILOF TOWNSITE, filed under U.S. Survey 3564, Kenai Recording District. Excepting portion conveyed to State (Bk 44/Pg 153) and corrected (Bk 45/Pg 46)</u>	<u>Kasilof</u>	<u>0.18</u>	<u>Quan La Lay Woo</u>
<u>133-140-12</u>	<u>Lot 3, Block 2, KASILOF TOWNSITE, filed under U.S. Survey 3564, Kenai Recording District. Excepting portion conveyed to State (Bk 44/Pg 153) and corrected (Bk 45/Pg 46)</u>	<u>Kasilof</u>	<u>0.15</u>	<u>Quan La Lay Woo</u>

PROPERTIES TO BE SOLD BY SUBSTANDARD LOT SALE PROCEDURES				
PARCEL NO	LEGAL DESCRIPTION	GENERAL LOCATION	ACRES	LAST OWNER OF RECORD
<u>133-140-13</u>	<u>Lot 2, Block 2, KASILOF TOWNSITE, filed under U.S. Survey 3564, Kenai Recording District. Excepting portion conveyed to State (Bk 44/Pg 153) and corrected (Bk 45/Pg 46)</u>	<u>Kasilof</u>	<u>0.15</u>	<u>Quan La Lay Woo</u>
<u>133-150-09</u>	<u>Lot 8, Block 13, KASILOF TOWNSITE, filed under U.S. Survey 3564, Kenai Recording District</u>	<u>Kasilof</u>	<u>0.26</u>	<u>Quan La Lay Woo</u>
<u>133-150-10</u>	<u>Lot 7, Block 13, KASILOF TOWNSITE filed under U.S. Survey 3564, Kenai Recording District</u>	<u>Kasilof</u>	<u>0.26</u>	<u>Quan La Lay Woo</u>
<u>133-150-11</u>	<u>Lot 6, Block 13, KASILOF TOWNSITE, filed under U.S. Survey 3564, Kenai Recording District</u>	<u>Kasilof</u>	<u>0.26</u>	<u>Quan La Lay Woo</u>

PROPERTIES TO BE SOLD BY OUTCRY AUCTION				
PARCEL NO.	LEGAL DESCRIPTION	GENERAL LOCATION	ACRES	LAST OWNER OF RECORD
012-141-18	Lot 6, Block 3, ROBINSON GLEN S/D, filed under Plat No. 83-266, Kenai Recording District	Nikiski	1.02	Casseday, Terry J
012-220-09	Lot 7, Block 2, FIELD S/D No. 1, filed under Plat No. K-1529, Kenai Recording District	Nikiski	2.02	Preblich, Evalyn L
012-360-37	Lot 4, Block 3, LAKE HILLS S/D, filed under Plat No. 78-120, Kenai Recording District	Nikiski	1.74	Hodgins, Mark
013-091-19	Lot 1, Block 3, LAKE VILLAGE S/D, filed under Plat No. K-1524, Kenai Recording District	Nikiski	1.57	Hodgins, Mark
014-281-15	That portion of Gov't Lot 1 and the NE ¼ SE ¼ lying Northeasterly of the Miller Loop Road ROW, T07N, R12W, SEC 23, Kenai Recording District	Nikiski	7.10	Winters, Della Catherine
015-200-23	Lot 2A, McCAUGHEY TRACT 2, Block 4 S/D, filed under Plat No. 81-	Nikiski	2.27	Perkins, Winnie

PROPERTIES TO BE SOLD BY OUTCRY AUCTION

PARCEL NO.	LEGAL DESCRIPTION	GENERAL LOCATION	ACRES	LAST OWNER OF RECORD
	133 Kenai Recording District			
043-130-23	Lot 2, WHITE BIRCH S/D filed under Plat No. K-1520, Kenai Recording District	Kenai	0.27	Jacob, Ronald
063-370-27	Lot 10A WHISPERING MEADOWS S/D PART TWO, Resubdivision of Lot 10, Block 1, filed under Plat No. 79-80, Kenai Recording District	Sterling	0.95	Persinger, Pat I & Rosemary
*065-440-43 *065-440-44 *065-440-45	Lots 43, 44, 45 Block 14, GREGORY S/D Addn. No. 6, filed under Plat No. 74-54, Kenai Recording District * to be sold as one parcel	Sterling	0.93 (each lot is 0.31)	Anderson, Skeg
137-271-16	Lot 44, NORTH RIDGE ESTATES S/D, filed under Plat No. 86-133, Kenai Recording District	Kasilof	1.53	Cox, Jeffrey
159-561-13	Lot 6-3, WOLVERINE FLATS S/D, 1985 S/D of Tract 6 & 10, and Survey of Tracts 2, 7, 11, 12, 13, 15, and 16, filed under Plat No. 86-25, Homer Recording District	Ninilchik	2.05	Namenson, David M
159-230-41	Tract 40, HAPPY VALLEY 5 ACRE HOMESITES, filed under Plat No. 62-629, Homer Recording District	Happy Valley	5.0	Hall, Forrest D
159-230-57	Tract 57, HAPPY VALLEY 5 ACRE HOMESITES, filed under Plat No. 62-629, Homer Recording District	Happy Valley	5.0	Hall, Forrest, D
159-230-47	Tract 33, HAPPY VALLEY 5 ACRE HOMESITES, filed under Plat No. 62-629, Homer Recording District	Happy Valley	5.0	Johnson, Galen M
159-240-31	Tract 95, HAPPY VALLEY 5 ACRE HOMESITES, filed under Plat No. 62-629, Homer Recording District	Happy Valley	5.0	Ocean View Enterprises Inc.
165-360-08	Tract 8, KING ACRES, filed under Plat No. 74-2192, Homer Recording	Nikolaevsk	9.55	Clay, Walter D & Dylan J

PROPERTIES TO BE SOLD BY OUTCRY AUCTION				
PARCEL NO.	LEGAL DESCRIPTION	GENERAL LOCATION	ACRES	LAST OWNER OF RECORD
	District			
165-360-16	Tract 16, KING ACRES, filed under Plat No. 74-2192, Homer Recording District	Nikolaevsk	10.0	Clay, Walter D & Dylan J
165-360-17	Tract 17, KING ACRES, filed under Plat No. 74-2192, Homer Recording District	Nikolaevsk	9.55	Clay, Walter D & Dylan J
165-400-01	Tract 33, BIRCH HAVEN ESTATES, filed under Plat No. 74-2193, Homer Recording District	Anchor Point	7.97	Taylor, Robert L
165-490-17	Lot 18, CHAKOK EAST UNIT 1, filed under Plat No. 77-73, Homer Recording District	Nikolaevsk	2.68	Mitchell, Thomas & Nadine
165-490-18	Lot 17, CHAKOK EAST UNIT 1, filed under Plat No. 77-73, Homer Recording District	Nikolaevsk	4.58	Mitchell, Thomas & Nadine
169-290-33	Lot 51, SILVER KING CAMP, Filed under Plat No. 83-51, Homer Recording District	Anchor Point	0.08	Flagg, Ernest B & Myong Cha
171-010-19	S ½ of the NE ¼, SEC 5, T5S, R14W, Homer Recording District	Anchor Point	80.0	Amberg, Fred Et Al
172-210-17	Lot 10, Block 4, TIMBERLINE S/D, filed under Plat No. 78-17, Homer Recording District	Fritz Creek	1.68	Fica, Thomas C & Jody Add
173-641-15	Tract 4, ROBERTSON S/D, filed under Plat No. 77-42, Homer Recording District	Diamond Ridge	9.07	Knox, Kerry & Witt, Robert Jr.
185-121-15	Alaska State Land Survey No. 94-13, filed under Plat No. 92-10, Homer Recording District	Fox River	4.96	Bomke, Marshal Lee & Michael P
185-521-05	SE ¼ SE ¼ SECT 15, T2S, R12W, Homer Recording District, excepting subsurface estate.	Ninilchik	36.10	Johansen, Stanley D
191-340-11	Lot , Block 14, BARABARA HEIGHTS S/D, filed under Plat No. 79-6, Seldovia Recording District	Seldovia	3.23	McClure, Ann Marie (Jewell)

- Amend Section 4 as follows:

That the assembly authorizes the borough to conduct an outcry auction of the tax foreclosed real property listed in Section 2 **and designated for outcry auction** to be held on October 24, 2009, in the Soldotna High School Auditorium, Soldotna, Alaska, to cause a public notice to be published in a newspaper of general circulation in the Borough not less than 30 days before the date of the sale and posted within that time in at least three public places in the borough.

- Amend Section 7 as follows:

That the Mayor is hereby authorized to sell the real property designated as foreclosed parcels for sale for an amount not less than the judgment amount for taxes, plus penalties, interest and other related costs as certified by the finance department, for cash at a public outcry auction **or as otherwise provided for in this ordinance**. All real property to be sold is subject to any and all restrictions of record, zoning ordinances, and any and all plat requirements and covenants.

END OF MEMORANDUM & DRAFT 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 McClure moved, seconded by Commissioner Murphy to recommend enactment of Ordinance 2009-39 authorizing retention or sale of certain real property.

VOTE: The motion passed by unanimous consent.

BRYSON YES	CARLUCCIO YES	COLLINS YES	FOSTER YES	GROSS YES	ISHAM YES	JOHNSON ABSENT
LOCKWOOD YES	MARTIN YES	MCCLURE YES	MURPHY YES	PETERSEN YES	TAURIAINEN ABSENT	11 YES 2 ABSENT

AGENDA ITEM F. PUBLIC HEARINGS

6. Ordinance 2009-40: Authorizing the Sale of Substandard-Sized Lots Obtained by the Kenai Peninsula Borough through Tax Foreclosure Proceedings and Retained for a Public Purpose

Memorandum reviewed by Marcus Mueller

PC Meeting: 7/20/09

A proposed amendment to the tax foreclosure ordinance 2009-39 would transfer nine substandard lots from