



KENAI PENINSULA BOROUGH

PLANNING DEPARTMENT

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**DAVID R. CAREY
BOROUGH MAYOR**

MEMORANDUM

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

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

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

DATE: July 23, 2009

SUBJECT: Ordinance 2009-41: Authorizing the Modification of Deed Restrictions on Two Parcels of Land in Cooper Landing that were Sold to the Cooper Landing Senior Citizen Corporation, Inc. for Senior Housing Purposes

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 F. PUBLIC HEARINGS

7. Ordinance 2009-41: Authorizing the Modification of Deed Restrictions on Two Parcels of Land in Cooper Landing that were Sold to the Cooper Landing Senior Citizen Corporation, Inc. for Senior Housing Purposes

Memorandum reviewed by Marcus Mueller

PC Meeting: 7/20/09

Ordinance 2005-06 (Mayor) Substitute, enacted March 1, 2005, authorized the lease with option to purchase, through partial releases, of 12.5 +/- acres on Snug Harbor Road in Cooper Landing to the Cooper Landing Senior Citizen Corporation, Inc. (CLSCCI) to develop senior housing.

CLSCCI purchased and successfully developed a 2 +/- acre parcel from the borough pursuant to Ordinance 2005-06 (Mayor) Substitute. Ordinances 2005-06 and 2008-11 contain a deed restriction on senior housing purposes which provide for an automatic forfeiture to the borough if the property is not used for senior housing purposes, unless otherwise agreed to by CLSCCI and the borough. Lot 1 was conveyed in 2005 subject to a senior housing public purpose deed restriction with "right-of-reentry," rather than an automatic reversion. CLSCCI was able to secure long-term financing for this project through the Alaska Housing Finance Corporation (AHFC) with the deed subject to a right of reentry.

Ordinance 2008-11 (Mayor, Long Substitute) modified the financial terms under the lease with option to purchase. Under Ordinances 2008-11 and 2005-06, CLSCCI purchased the remaining two lots, Lot 2A and Lot 2B, both being subject to a senior housing public purpose deed restriction with the "automatic reversion" provided for by the ordinance.

CLSCCI is completing construction of a 6-unit senior housing facility on Lot 2A, but is unable to secure long-term financing through AHFC because of the "automatic reversion" language as written in the deed to Lot 2A and 2B.

AHFC requested that the automatic reversion language be altered to protect its interests in providing long term financing. A right of reentry affords the borough the ability to file suit to regain the property, without requiring the automatic forfeiture and would not hinder CLSCCI's long-term financing.

This Ordinance would authorize the modification of the deed restriction language on the deeds for Lot 2A and Lot 2B to the deed restriction language used for Lot 1.

The assembly's consideration of this request to facilitate CLSCCI is appreciated.

END OF MEMORANDUM

Chairman Bryson opened the meeting for public comment.

1. Jackie Greenman, 38552 Snug Harbor Road
Ms. Greenman is the chairman of the Building and Site Committee for Phase 2 of the Senior Campus development. She encouraged the commission to recommend the passage of this ordinance as it is written so that they could move forward on closing. They will not be able to close on this property until this issue is resolved. The seniors appreciate all the work that the Borough and AFHC has done to resolved this issue. Ms. Greenman encouraged the passage of the ordinance.

Chairman Bryson asked if there were questions for Ms. Greenman. Hearing none, the public hearing continued.

Seeing and hearing no one else wishing to speak, Chairman Bryson closed the public comment

period and opened discussion among the Commission.

MOTION: Commissioner Petersen moved, seconded by Commissioner Lockwood to recommend enactment of Ordinance 2009-41, Authorizing the Modification of Deed Restrictions

Commissioner Petersen stated the Cooper Landing Seniors have done an excellent job in the development of their facilities and encouraged the commissioners to take a look at it.

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

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

- 8. Resolution 2009-___ Updating The Land Management Division Fee Schedule for Filing Applications and Issuing Permits

Memorandum reviewed by Marcus Mueller

PC Meeting: 7/20/09

The KPB Land Management Division routinely processes a variety of applications for the use of borough land and natural resources. The fee schedule to process such applications was established in 1993 and is no longer in parity with the prevailing fees charged by other boroughs. Updating the fee schedule will help to defray the cost of processing applications, advertising for public notice, recording instruments, and issuing permits for the authorized use of borough land and natural resources. Updating the fee schedule will also help to bring the borough within the prevailing fees charged by other boroughs such as Mat Su Borough, Fairbanks North Star Borough, and the Juneau City and Borough.

The Planning Commission's consideration of this resolution is appreciated.

END OF MEMORANDUM

Chairman Bryson opened the meeting for public comment noting no members of the public were present. 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 McClure to recommend adoption of Resolution 2009-___; updating the Land Management Division Fee Schedule for filing applications and issuing permits pursuant to KPB, Chapter 17.10.

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

- 9. Resolution 2009-04; KPB Flood Plain Task Force; Resolution recommending that various solutions including land purchase, sale, and trade be pursued in order to facilitate moving

citizens within the Seward-Bear Creek Flood Service Area from Flood Hazard Areas.

Staff Report given by Max Best

PC MEETING: 7/20/09

COOPER LANDING ADVISORY PLANNING COMMISSION
SPECIAL MEETING
JULY 8, 2009, 6 P.M.
COOPER LANDING COMMUNITY HALL

UNAPPROVED MINUTES

1. CALL TO ORDER. Chair Painter called the meeting to order at 6:00 P.M.
2. ROLL CALL. Present Painter, Holsten, Bear, Romig, Corbin. Unexcused Absence Williams
- 3.
4. APPROVAL OF AGENDA. Agenda approved as read
5. APPROVAL OF MINUTES: May 6, 2009 Approved
6. CORRESPONDENCE. None
7. PUBLIC COMMENT/PRESENTATION WITHOUT PREVIOUS NOTICE. None
8. REPORT FROM BOROUGH: Marcus Mueller represented the Borough and discussed Ordinance 2009-41 and Ordinance 2009-37. Mueller also discussed the Cooper Landing gravel pit on Snug Harbor Road and explained that this was likely the last expansion. He asked the CLAPC to discuss future uses of the pit to help determine reclamation requirements. CLAPC agreed to provide their recommendation at a later date and after public input. The area is currently in a "Light Industrial" land classification.
9. Muller continued by explaining the "Trails Ordinance" (Ordinance 2009-37). He explained that non profit user groups/community organizations have applied in the past to build/manage/maintain trails on Borough Lands. The Borough does not have "trails powers" so had no instrument for allowing this uses to be authorized. Ordinance 2009-37 would give the Borough power to issue trail management to groups without obligating Borough funds. This permit would allow a legal mechanism for groups to manage trails. He asked CLAPC to submit our comments. It was agreed we would develop comments at the August 5 meeting.
10. OLD BUSINESS. None
11. NEW BUSINESS
 - A. Cooper Landing Senior request to standardize deed language: (Text of proposed ordinance is available on the Borough's website: <http://www.borough.kenai.ak.us>). Romig moved that the CLAPC support the passage of the ordinance as written. Holsten seconded. It passed unanimously.
12. PLAT REVIEW. None
13. ANNOUNCEMENTS
 - A. NEXT REGULAR MEETING, August 5, 2009
14. COMMISSIONERS' COMMENTS
15. ADJOURNMENT