

Introduced by:	Sprague, Mayor
Date:	01/05/10
Hearing:	02/02/10
Action:	Introduced and Set for Public Hearing on 02/02/10 and 02/16/10
Date:	02/02/10
Action:	Postponed as Amended Until 02/16/10
Date:	02/16/10
Action:	Enacted as Amended
Vote:	8 Yes, 0 No, 1 Absent

**KENAI PENINSULA BOROUGH
ORDINANCE 2010-01**

**AN ORDINANCE AUTHORIZING A LAND CONVEYANCE TO THE CITY OF
SOLDOTNA OF A 10-ACRE BOROUGH PARCEL ON WEST REDOUBT TO
SUPPORT A CITY CEMETERY**

- WHEREAS,** Chapter 4 of the 2005 Kenai Peninsula Borough Comprehensive Plan provides: "Some communities, including Soldotna, lack cemetery sites, necessitating significant travel to visit burial sites of family members or friends"; and
- WHEREAS,** the 2005 Comprehensive Plan Goal 4.11 Objective 1 is "[t]o reserve adequate public land and encourage private landowners to meet future cemetery needs throughout the Borough"; and
- WHEREAS,** the City of Soldotna formed a Cemetery Task Force to research feasibility, desirability, and available locations for a community cemetery in the Soldotna area; and
- WHEREAS,** the Cemetery Task Force recommended 10 acres of Borough-owned land on West Redoubt Avenue as a cemetery site; and
- WHEREAS,** the Soldotna City Council adopted Resolution 2009-070 requesting the Kenai Peninsula Borough to convey a 10-acre tract along West Redoubt Avenue in Soldotna to the City for cemetery use; and
- WHEREAS,** the fair market value of the subject 10 acres of Borough-owned land has been appraised by the Kenai Peninsula Borough Assessor at \$413,800; and
- WHEREAS,** KPB 17.10.100(D), (E), and (I) authorize sales in cooperation with another governmental entity, a negotiated sale for other than fair market value, and a combination of sale methods; and

WHEREAS, the City of Soldotna adopted Resolution 2009-062 committing Crystalline Subdivision Tract 1 as a memorial park, subject to an evaluation by the city manager, and instructed the city manager to negotiate the purchase of an adjacent 10 acres south of Crystalline Subdivision from the Kenai Peninsula Borough; and

WHEREAS, the KPB Planning Commission at its regularly scheduled meeting of January 25, 2010, 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 conveying the following described property at less than fair market value to the City of Soldotna for cemetery use is in the best interest of the borough:

The SW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ within Section 30, Township 5 North, Range 10 West, Seward Meridian, Alaska, containing approximately 10.0 acres.

This finding is based on the following facts:

- a. The conveyance will benefit Borough residents by allowing the creation of a municipal cemetery within the City of Soldotna that will be available to both city and non-city residents.
- b. The cemetery will fulfill the need for a cemetery for the people of the Soldotna, Sterling, Ridgeway, Kasilof and other areas of the borough.
- c. The borough lacks authority to establish and operate a cemetery, but the City of Soldotna has such authority.
- d. The City of Soldotna shall be responsible for the costs of improvements, maintenance, and operation of the cemetery for the benefit of city and other borough residents.
- e. Charging fair market value for this property would preclude the use of such funds to establish and operate the cemetery.

SECTION 2. The mayor is authorized, pursuant to KPB 17.10.100(D), (E), and (I) to convey property to the City of Soldotna as described in Section 1 above for the sum of \$2 Borough land shall be conveyed to the City of Soldotna by Quitclaim Deed. The City of Soldotna shall be responsible for any surveying and platting required, title insurance, and any other closing costs.

SECTION 3. There shall be a deed restriction placed on the deed to the City of Soldotna. The deed restriction shall require that the parcel be used for cemetery purposes only, that it not be limited to use by Soldotna residents but rather shall be available to the general public on equal fees and terms, and that use as a cemetery shall begin within five years of the date this ordinance is enacted. Burials must begin within this time frame.

If at any time thereafter any portion of the parcel is used for purposes other than a cemetery, the borough shall have a right of reentry for a broken condition subsequent to the portion of the parcel not used as a cemetery.

SECTION 4. The Soldotna administration shall take the steps necessary to seek planning commission approval to vacate the lot lines between Tract 1 of Crystalline Subdivision and the adjacent 10-acre borough parcel to create a parcel for cemetery purposes, excepting that portion of Tract 1 necessary for the City of Soldotna storm drain and access use. The newly created parcel shall be subject to the deed restrictions set forth in Section 3 of this ordinance.

SECTION 5. Pursuant to KPB 17.10.230, the Assembly authorizes an exception to the requirements of KPB 17.10.110, Notice of disposition, based on the following facts:

1. That special circumstances or conditions exist;
 - a. KPB 17.10.110. Notice of Disposition, requires publishing notice of the sale four times in the 30-day period immediately preceding the date of the sale. This notice requirement is intended to make the public aware of an opportunity to purchase borough land. Publishing notice of this conveyance will not serve a useful purpose as the City of Soldotna is the specified recipient of the borough land in this conveyance.
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 this exception to that finding requirement as it is impractical, and compliance is not in the best interests of the borough due to the delay and unnecessary expense it would cause.
 - b. Notice has been provided for the Planning Commission and Assembly hearings. Additional notice is not necessary to comply with the intent of KPB 17.10.
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 public will receive notice of this conveyance through publication of the Planning Commission and Assembly meeting agendas.

- b. The proposed land use conforms with city zoning code applicable to the borough owned parcel.

SECTION 6. The City of Soldotna shall have 180 days from the date of enactment of this ordinance to execute the purchase agreement.

SECTION 7. The mayor is authorized to sign any documents necessary to effectuate this ordinance.

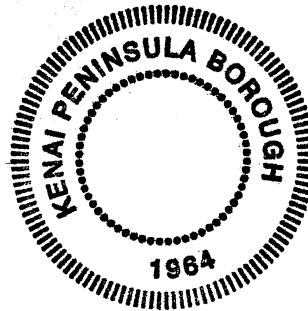
SECTION 8. That this ordinance shall take effect immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 16TH DAY OF FEBRUARY, 2010.


Pete Sprague, Assembly President

ATTEST:


Johni Blankenship, Borough Clerk



Yes: Fischer, Haggerty, McClure, Pierce, Smalley, Smith, Superman, Sprague
No: None
Absent: Knopp