

Introduced by:	Mayor
Date:	10/12/10
Hearing:	11/09/10
Action:	Enacted as Amended
Vote:	7 Yes, 0 No, 2 No

**KENAI PENINSULA BOROUGH
ORDINANCE 2010-38**

**AN ORDINANCE AUTHORIZING CONVEYANCE OF 0.49 ACRES MORE-OR-LESS
OF LAND TO THE CITY OF HOMER**

WHEREAS, the S1/2 of Lot 30 in Sec 14, T6S, R13W, Seward Meridian, Homer Recording District, Third Judicial District, lying west of Kachemak Dr., (KPB Tax Parcel No. 179-080-50), was obtained by the borough through tax foreclosure proceedings pursuant to AS 29.45.290 et seq. for delinquent payment of taxes and retained for public purpose by Ordinance 2007-21; and

WHEREAS, the City of Homer Public Works Department is in Phase II of the Kachemak Drive Water and Sewer Project and requires use of the property for water and sewer improvements; and

WHEREAS, AS 29.45.450(C) states: "If unredeemed property lies in the borough outside all cities and if the borough does not have an immediate public use for the property but a city does have an immediate public use, the borough shall deed the property to the city;" and

WHEREAS, the Land Trust Fund paid \$386.83 to the borough general fund for unpaid taxes and interest upon enactment of Ordinance 2007-21; and

WHEREAS, it is in the borough's best interest to convey said property to the City of Homer pursuant to KPB 17.10.100 (I) and consistent with AS 29.45.450 and 490; and

WHEREAS, the KPB Planning Commission at its regularly scheduled meeting of October 25, 2010, recommended approval 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 S1/2 Lot 30 Sec 14, T6S, R13W, Seward Meridian, Homer Recording District, Third Judicial District, lying west of Kachemak Dr., (KPB Tax Parcel No. 179-080-50), to the City of Homer, pursuant to KPB 17.10.100 (I) is in the best interest of the borough as it allows the borough to recover the costs of foreclosure, while allowing the City of Homer to utilize said land for the construction, installation, operation, maintenance, repair, and replacement of public water and sewer improvements.

SECTION 2. That the above-described property was retained for public purpose under Ordinance 2007-21, such public purpose being that the property is less than 40,000 sq ft in size and thus marginally fit for typical residential use; however, said property is no longer needed by the borough for a public purpose provided it is conveyed to the City of Homer for public utilities and other public purposes.

SECTION 3. Based on the foregoing, the mayor is hereby authorized, pursuant to KPB 17.10.100(I), to convey by quitclaim deed the land described in Section 1 above to the City of Homer for \$386.83.

SECTION 4. That the Assembly additionally makes an exception to KPB 17.10.090 requiring classification prior to disposal. This exception is based on the following findings of facts pursuant to KPB 17.10.230:

1. Special circumstances or conditions exist.
 - A. KPB 17.10.080(A) states classification of property is for review, plan, implementation, and management purposes. The classification system designates the most appropriate uses for land and thereby guides borough management of such lands and implementation actions to provide for the identified uses. This ordinance provides the direction for management and implementation actions for the subject parcel.
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 ordinance authorizes subject land to be conveyed to the City of Homer on a non-competitive basis pursuant to KPB 17.10.100(I). Classification will be redundant and not serve a useful purpose based on the findings of No. 1 above.
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 sale of the subject land to the City of Homer would facilitate a public water and sewer project which benefits neighboring landowners and the general public.

SECTION 5. That the Assembly additionally makes an exception to KPB 17.10.110 requiring notice of a disposition of land. This exception is based on the following findings of facts pursuant to KPB 17.10.230:

1. Special circumstances or conditions exist.
 - A. This ordinance authorizes subject land to be conveyed to the City of Homer on a non-competitive basis pursuant to KPB 17.10.100(I).

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. The purpose of the KPB 17.10.110 advertising requirement is to notify the public of an opportunity to purchase or lease KPB land and advertising this sole-source conveyance to the City of Homer will not serve a useful purpose.
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 has been notified of this proposed sale through the publication of Planning Commission and Assembly agendas.

SECTION 6. The mayor is authorized to sign any documents necessary to effectuate this ordinance.

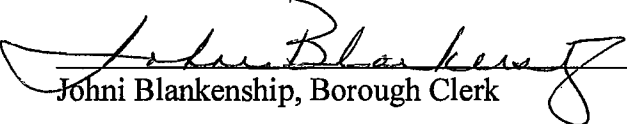
SECTION 7. The City of Homer shall have until 180 days after enactment of this ordinance to accept this offer by execution of a purchase agreement.

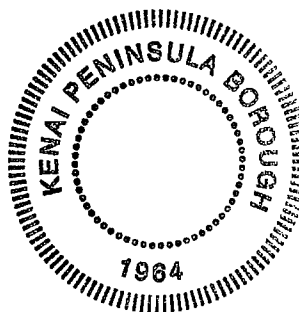
SECTION 8. That this ordinance shall take effect immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 9TH DAY OF NOVEMBER, 2010.


Gary Knopp, Assembly President

ATTEST:


John Blankenship, Borough Clerk



Yes: Johnson, McClure, Tauriainen, Smith, Murphy, Smalley, Knopp
No: None
Absent: Haggerty, Pierce