

Introduced by:	Mayor
Date:	10/12/10
Shortened Hearing:	10/26/10
Action:	Postponed Until 11/09/10
Date:	11/09/10
Action:	Enacted
Vote:	7 Yes, 0 No, 2 Absent

**KENAI PENINSULA BOROUGH  
ORDINANCE 2010-40**

**AN ORDINANCE AUTHORIZING THE EQUAL VALUE EXCHANGE OF TWO  
SUBSTANDARD LOTS IN KASILOF TOWNSITE FOR A 0.69 ACRE RIGHT-OF-WAY  
EASEMENT FOR THE RELOCATION OF WOODS DRIVE WITH COOK INLET  
REGION, INC.**

- WHEREAS,** the Kenai Peninsula Borough is in the process of relocating the first one-half mile of Woods Drive in the Ciechanski area onto borough land; and
- WHEREAS,** the Woods Drive relocation project requires right-of-way from an adjacent landowner, Cook Inlet Region, Inc. ("CIRI") to complete the tie back into the existing Woods Drive alignment; and
- WHEREAS,** two parcels of land in Kasilof Townsite owned by the borough and adjoining land owned by CIRI have been identified as desirable for consideration by CIRI for granting the needed right-of-way across CIRI lands to complete the Woods Drive connection; and
- WHEREAS,** the two Kasilof Townsite lots are each 0.26 acres in size and are each assessed at \$2,200 for a total acreage of 0.52 acres and a total value of \$4,400; and
- WHEREAS,** the Kasilof Townsite lots are tax-foreclosed parcels retained for a public purpose under ordinance 2009-39(Sub); and
- WHEREAS,** pursuant to AS 29.45.460 tax-foreclosed property retained for a public purpose may be sold if the assembly determines the public need no longer exists; and
- WHEREAS,** the required easement area is 0.69 acres; and
- WHEREAS,** the exchange of the two lots for the right-of-way easement provides benefits to both parties and is an exchange of substantially equal value; and
- WHEREAS,** the KPB Planning Commission at its regularly scheduled meeting of October 25, 2010, failed to recommended approval;

**NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:**

**SECTION 1.** That the Assembly finds that exchanging property interests within Section 13 T5N, R11W and Section 30 T3N, R11W S.M., State of Alaska, as further described below pursuant to KPB 17.10.100 (C) is in the best interest of the Borough:

**Property to be conveyed to CIRC:**

Lots 6 & 7 Block 2 Townsite of Kasilof US Survey 3564 according to plat no. KN3564, Kenai Recording District containing 0.52 acres subject to the requirement to combine these lots with adjacent property owned by CIRC by recorded subdivision plat.

The subject parcels were retained for public purpose by Ordinance 2009-39 and the last record owner of the subject parcels is Quan, La Lay Woo.

**Property to be conveyed to the Kenai Peninsula Borough:**

A 60-foot wide Non-Exclusive Easement for public road right-of-way purposes embracing the proposed realignment of Woods Drive situated within the NE1/4SE1/4 Section 13, T5N, R11W, S.M. Alaska embracing 0.69 acres more or less.

**SECTION 2.** That the best interest of the borough finding is based on the following facts:

- a) That the Kenai Peninsula Borough requires this legal right-of-way from CIRC in order to connect the proposed realigned Woods Drive with the existing Woods Drive alignment.
- b) That CIRC has offered to accept the two parcels with substantially equal value to the easement in lieu of monetary consideration.
- c) That the two parcels to be conveyed to CIRC are substandard lots acquired through tax foreclosure and were retained for public purpose due to their substandard size. Conveying these lots to CIRC with the requirement that the lots be combined by plat with adjacent CIRC-owned lands would cure the public purpose for which they were retained.
- d) That disposing of the two parcels would relieve the borough from future management obligations of these substandard lots while providing the benefit of obtaining valuable right-of-way necessary to advance the borough's Woods Drive relocation project.
- e) The exchange will add value to each party's landholdings for their respective purposes.

- f) This negotiated exchange benefits both parties fairly.

**SECTION 3.** That the Assembly makes an exception to KPB 17.10.110 requiring notice of a disposition of land. This exception is based on the following findings of fact pursuant to KPB 17.10.230:

1. Special circumstances or conditions exist.
  - A. This ordinance authorizes a land exchange with CIRI on a non-competitive basis pursuant to KPB 17.10.100(c).
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 exchange 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. This exchange involves disposal of tax foreclosed land retained for a public purpose due to its substandard size, disposal of which is only possible to adjoining landowners along with the requirement to enlarge the property boundaries by combining the lots with the adjoining property by plat.
  - B. This exchange involves acquisition of easement interests for right-of-way purposes that can only feasibly be obtained from CIRI and which specifically advances the Woods Drive relocation project which will improve the roadway for the general benefit of borough residents.

**SECTION 4.** That the mayor is authorized to execute the exchange agreement substantially in the form of the one accompanying this ordinance and any and all documents necessary to effectuate this ordinance.

**SECTION 5.** That the land interest acquired by the borough through this exchange is in the form of an easement for public road purposes and need not be classified under KPB 17.10.080.

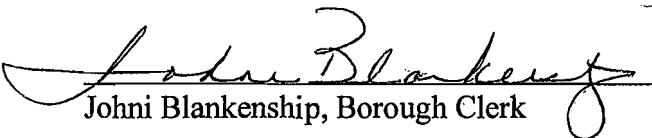
**SECTION 6.** That the exchange of property interests is substantially equal in value and no additional monetary consideration is required. For the borough's financial recording purposes, the value of the easement interests acquired shall be noted as \$4,400 and the value of the land disposed shall be noted as \$4,400. Recording costs and any other closing costs shall be charged to the Land Trust Fund under the FY11 budget.

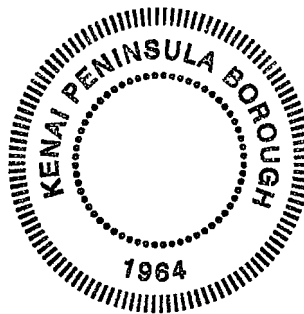
**SECTION 7.** That this ordinance take effect immediately upon its enactment.

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

  
Gary Knopp, Assembly President

ATTEST:

  
Johni Blankenship, Borough Clerk



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