

Introduced by: Navarre, Scalzi
Date: 04/18/00
Hearing: 05/16/00
Action: Introduced and Set for Public Hearing
Action: Enacted as Amended
Vote: 7 Yes, 1 No, 1 Absent

**KENAI PENINSULA BOROUGH
ORDINANCE 2000-18**

**AN ORDINANCE AUTHORIZING THE CONVEYANCE OF TRACT B, GLUD
SUBDIVISION, IN THE ANCHOR POINT AREA TO THE NORTH PACIFIC
VOLCANO LEARNING CENTER, INC. FOR OTHER THAN FAIR MARKET VALUE**

WHEREAS, in Ordinance 98-48, the Kenai Peninsula Borough Assembly authorized the mayor to purchase certain property for \$315,000 containing approximately 90 acres for the future use as the site of a volcano learning center; and

WHEREAS, on December 28, 1998, final approval of the subdivision plat governing this property was completed; and

WHEREAS, the borough purchased the subject property on the 20th day of January, 1999; and

WHEREAS, the North Pacific Volcano Learning Center, Inc. (NPVLC) is a nonprofit corporation which has been working toward developing a volcano learning center and other facilities at this site; and

WHEREAS, NPVLC has recently approached the borough requesting that the borough transfer this property to the nonprofit corporation in order to improve the corporation's ability to raise grant funds for the construction of the center and associated facilities; and

WHEREAS, conveying the land to NPVLC serves a public purpose in that it will promote the health, safety, and general welfare of the public by increasing knowledge about volcanoes, by providing economic benefits through new jobs and attracting tourism to the borough, by providing a trail system and protection of the Stariski Creek estuary, and because the borough will recover its cost for the land; and

WHEREAS, the Anchor Point Advisory Planning Commission held a public hearing at its regularly scheduled meeting of May 9, 2000, and recommended approval with amendments; and

WHEREAS, the Kenai Peninsula Borough Planning Commission held a public hearing at its regularly scheduled meeting of May 8, 2000, and recommended approval with amendments;

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

SECTION 1. That the assembly finds that selling this land to the NPVLC for other than fair market value is in the best public interest, and pursuant to KPB 17.10.230, hereby authorizes exceptions to KPB 17.10.080 (requiring classification prior to transfer), KPB 17.10.120 (terms of a land sale), and the provisions of KPB Chapter 19. 30 (economic development) based upon the following findings of fact pursuant to KPB 17.10.230:

1. Special circumstances or conditions exist as
 - A. NPVLC is a nonprofit corporation formed to construct and operate a volcano learning center in the Kenai Peninsula Borough for the benefit of the general public.
 - B. The subject property was specifically purchased by the borough (prior to the enactment of KPB Chapter 19.30) because it is a good location for the proposed volcano learning center.
 - C. As the intended purpose is for this use, the classification process would delay the transfer and is unnecessary.
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 the code because:
 - A. The project would not proceed if the borough were to require standard payment terms for this property at this time as the NPVLC will use its interest in this land to assist it in obtaining grant funds necessary to construct the facility. Once the facility is constructed, it then plans to generate revenues or raise additional contributions that will enable it to pay for the property.
 - B. NPVLC needs title to this property in order to raise grant funds necessary to construct the facility.
3. That granting these exceptions will not be detrimental to the public welfare or injurious to other property in the area because:
 - A. Construction of a trail and protection for the Stariski Creek estuary will benefit the general public by conserving this critical habitat area for the future.

- B. Construction of NPVLC and associated facilities on this property will improve the economy of the Kenai Peninsula Borough by providing jobs for persons employed on the property and by companies providing goods and services for the center, and by further promoting tourism in the Kenai Peninsula Borough. Tourism currently accounts for a significant portion of the Kenai Peninsula Borough's economy.

SECTION 2. Based on the foregoing, the mayor is hereby authorized pursuant to KPB 17.10.100(I) and 17.10.120(D) to negotiate and sell to NPVLC the property described as Tract B, Glud Subdivision Plat No. 98-73, Kenai Recording District, Third Judicial District, State of Alaska, containing 80 acres, more or less, subject to the terms and conditions of this ordinance.

SECTION 3. The sale shall be for the sum of \$315,000 plus interest accruing from the date of sale at the prime rate on the date of sale plus 2 percent. The payments for the first five years shall be \$1 per year; the balance remaining shall be amortized over a period not to exceed 20 years with payments to be in equal installments monthly, semi-annually, or yearly, with the first payment due 6 years from the date of sale. The period for total payment shall be 25 years. The sale shall be secured by a first deed of trust against the property provided that the administration may subordinate that position for construction funding purposes.

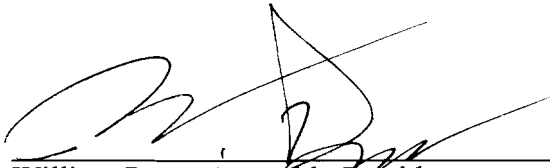
The purchaser shall be responsible for acquiring title insurance and shall pay all fees associated with this sale including recording fees, closing costs, escrow setup fees, annual escrow fees, collection fees, surveying and platting fees to the extent applicable, and other associated fees for this sale. All other applicable terms and conditions of KPB Chapter 17.10 shall apply to this sale unless inconsistent with this ordinance.

SECTION 4. The transfer of this property shall be subject to the following additional conditions:

1. The land shall be used solely for the construction, operation, and development of a volcano learning center, for site development to support the volcano learning center and protect the Stariski Creek estuary, for trails throughout the property which may be used by the public, and other associated public purposes. If the property is not primarily used for these public purposes for a continuous period of one year, the Kenai Peninsula Borough may foreclose the deed of trust for failure to comply with this condition unless otherwise agreed upon in writing by the borough and NPVLC.
2. At such time NPVLC shall pay in full the \$315,000 plus all costs, interests, and fees, then the conditions contained in this section shall no longer apply.

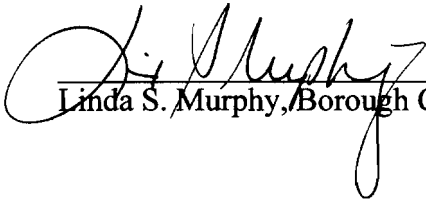
SECTION 5. That this ordinance shall take effect immediately upon enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 16TH DAY OF MAY, 2000.



William Popp, Assembly President

ATTEST:



Linda S. Murphy, Borough Clerk

