

Introduced by: Mayor  
Date: 04/17/18  
Hearing: 05/01/18  
Action: Enacted as Amended  
Vote: 9 Yes, 0 No, 0 Absent

**KENAI PENINSULA BOROUGH  
ORDINANCE 2018-18**

**AN ORDINANCE AUTHORIZING THE NEGOTIATED SALE OF TWO TAX  
FORECLOSED RETAINED PARCELS TO THE LAST RECORD OWNERS AT AN  
AMOUNT EQUAL TO TAXES, FEES, PENALTIES, AND INTEREST**

**WHEREAS**, the subject parcels were tax foreclosed and retained for public purpose under Ordinance 2017-20; and

**WHEREAS**, in each case the prior record owner later contacted the borough expressing a desire to repurchase the property; and

**WHEREAS**, the right of repurchase by the last record owner ceased upon enactment of Ordinance 2017-20; and

**WHEREAS**, the administration has reviewed each case and recommends offering the properties back to the last record owner provided that an amount equal to taxes, fees, penalties, and interests are recovered by the sale; and

**WHEREAS**, in one case the circumstances during the foreclosure process involved a combination of estate and health matters resulting in foreclosure of a family heritage parcel; and

**WHEREAS**, in the other case, the parcel was retained by the borough as a substandard lot however further investigation revealed that the parcel's size meets the zoning requirements for the locality; and

**WHEREAS**, the Kenai Peninsula Borough Planning Commission, at its regular meeting of April 23, 2017, recommended approval of the ordinance 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 real property pursuant to KPB 17.10.100(I) and 17.10.120(D) at an amount equal to taxes, fees, penalties, and interest, through and including the current year, is in the best interest of the borough and determines, pursuant to A.S. 29.45.460(b), that a public need does not exist to retain these properties for a public purpose.

PARCEL NO.	DESCRIPTION	LOCATION	ACRES	PRIOR RECORD OWNER
03902113	Lot 24, Block 1, Bush Lanes Subdivision, Plat No. 1018, Kenai Recording District	Kenai	0.17	Delong, Junetta Lynn
15930118	Tract B, Cooper Subdivision, River Addition, Plat No. 97-42, Homer Recording District	Ninilchik	31.59	Cooper, David F

The finding is based on the following facts:

- A. That these sales will recover the total tax debts owed on each parcel and result in the return of the parcel to their prior owner.
- B. That the benefit of resolving tax matters and maintaining private ownership of the properties outweighs the public purpose retention.
- C. That the respective prior record owners took steps toward repurchase of the property but were unable due to the retained status.
- D. That the representatives of parcel 159-301-18, in a letter to the borough, described personal circumstances that do not negate the tax process but that can be rectified through this action without detriment to the public.
- E. That parcel 039-021-13 is in the City of Kenai, is zoned Suburban Residential, and meets the minimum lot size requirements for single family dwelling land use by city code; the retention of this parcel was therefore in error as it did not meet the substandard lot parameters upon which the decision to retain the parcel was based.

**SECTION 2.** The assembly additionally makes an exception to KPB 17.10.110 (notice of disposition). This exception is based on the following findings of fact pursuant to KPB 17.10.230:

1. Special circumstances or conditions exist.
  - 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 negotiated sale to last record owners will not serve a useful purpose.
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 exception to that finding requirement. For this negotiated sale, the notice requirement is impractical, and compliance is not in the best interests of the borough due to the delay and unnecessary expense it would cause.
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 return of ownership to the prior record owner is a return to status quo for each area. The borough's interest in the sale of tax foreclosed parcels is to recoup its taxes on behalf of the public and taxes, fees, penalty and interest will be recovered for these parcels.

**SECTION 3.** Based on the foregoing, the mayor is hereby authorized, pursuant to KPB 17.10.100(I) to sell and convey, through quitclaim deed, the land described in Section 1 above to the listed prior record owner for the amount equal to taxes, penalties, fees and interest due and occurring through the current tax year as determined by the borough finance department on the date of sale, and in accordance with the terms and conditions of this ordinance. The authorization is for sale solely to the prior record owner and it may not assign any rights to negotiate or enter an agreement for purchase to any other person or entity.

The purchaser shall be responsible for all fees associated with this sale including recording fees, closing costs, escrow setup fees, 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.** 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. Classification immediately prior to disposal to a prior record owner does not accomplish these purposes.
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 classification requirement is not necessary to preserve a substantial property right, and the assembly hereby authorizes an exception to that finding requirement.

3. That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the area.

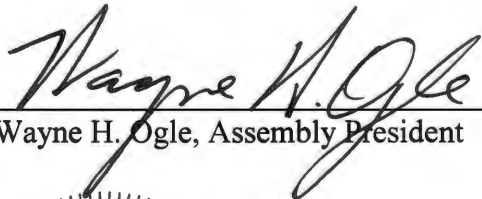
A. That transfer of ownership to the prior record owner is a return to status quo for each area.

**SECTION 5.** The mayor is authorized to sign any documents necessary to effectuate this ordinance.

**SECTION 6.** The prior record owner shall have until 180 days after enactment of this ordinance to accept this offer by execution of a purchase agreement.

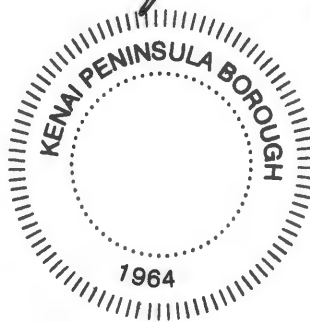
**SECTION 7.** That this ordinance shall take effect immediately upon its enactment.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 1ST DAY OF MAY, 2018.**

  
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Wayne H. Ogle, Assembly President

ATTEST:

  
\_\_\_\_\_  
Johni Blankenship, MMC, Borough Clerk



Yes: Bagley, Blakeley, Carpenter, Cooper, Dunne, Fischer, Hibbert, Smalley, Ogle  
No: None  
Absent: None