

Introduced by: Mayor  
Date: 08/23/22  
Hearing: 09/06/22  
Action: Failed as Amended  
Vote: 0 Yes, 9 No, 0 Absent

**KENAI PENINSULA BOROUGH  
ORDINANCE 2022-19-14**

**AN ORDINANCE APPROPRIATING \$225,000 FROM THE LAND TRUST FUND FOR  
SLOPE AND DRAINAGE REPAIRS IN COOPER LANDING AND AUTHORIZING  
THE DISPOSAL OF UP TO 1.25-ACRES OF LAND TO BUNKHOUSE PROPERTIES,  
LLC**

- WHEREAS,** the Kenai Peninsula Borough ("KPB") owns a parcel of land in Cooper Landing that was previously used for material extraction, with the slope reclaimed and a drainage system installed in cooperation with an adjacent property owner; and
- WHEREAS,** in November 2021, the KPB Land Management Division was alerted to an erosion event that involved the slope and adjacent property owned by Bunkhouse Properties, LLC ("Bunkhouse"); and
- WHEREAS,** Resolution 2022-029 approved the Drainage Installation and Work Agreement ("Agreement") with Bunkhouse; and
- WHEREAS,** pursuant to the Agreement, KPB obtained an engineering design to repair the slope and drainage system; and
- WHEREAS,** the estimated cost of the work is \$200,000 to be bid and administered by the KPB Purchasing and Contracting Department; and
- WHEREAS,** in order to mitigate the impacts of potential winter weather conditions, the KPB Administration will waive formal bidding procedures pursuant to KPB 5.28.300; and
- WHEREAS,** as contemplated in the Agreement, the unification of ownership and responsibility for the slope and drainage system is a desired outcome to provide for long-term resolution of management concerns and to resolve associated land use conflicts; and
- WHEREAS,** pursuant to the Agreement, this ordinance proposes for KPB to survey and convey title of the slope area to Bunkhouse for a release of all liabilities associated with the maintenance of the slope and drainage system; and

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

**SECTION 1.** That \$225,000 is appropriated from the Land Trust Fund fund balance to project Account No. 250.21210.SLODR.49999 for slope and drainage repair work, surveying, and project management.

**SECTION 2.** That pursuant to KPB 17.10.100(I), to resolve a land use conflict, the mayor is authorized to survey and convey the slope area, not to exceed 1.25 acres from Tract A, ASLS 2003-2, to the adjacent owner, Bunkhouse, consistent with the Agreement approved by Resolution 2022-029.

**SECTION 3.** That in exchange for the land to be conveyed, all ownership and maintenance responsibilities of the slope and drainage system will be transferred to Bunkhouse and KPB shall be released from all liability as a material term of the purchase agreement. Bunkhouse shall have 90 days from recordation of a survey plat to accept the offer.

**SECTION 4.** That an exception is made to KPB 17.10.100(I), limiting negotiated sales for resolving a land use conflict to not more than one acre, based on the following pursuant to KPB 17.10.230:

- 1) That special circumstances or conditions exist:
  - a. That the area of concern defined by the existing reclaimed slope and reasonable access thereto accounts for approximately 1.25 acres, and limiting the area to less than the entire slope area would not serve the purpose of the 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. That the purpose of this negotiated sale is to unify controlling property interests of the entire slope and drainage system, such that existing and future land use conflicts between the reclaimed slope and adjacent private land uses can be managed by a single interest holder; and,
  - b. That KPB does not have a public interest in continuing to manage the slope or drainage features beyond the scope of this proposal.

- 3) That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the area:
- c. That KPB lacks direct access to the subject slope and drainage features, however Bunkhouse holds the most practical access and is the primary other party to the existing slope and drainage system. Unifying interests to the slope and drainage system would enable the interested party to respond to future events and maintenance needs associated with the slope and drainage functions, thereby protecting property.

**SECTION 5.** That the Mayor is authorized to execute any and all documents necessary to effect this ordinance.

**SECTION 6.** That the appropriations made in this ordinance are project length in nature and as such do not lapse at the end of any particular fiscal year.

**SECTION 7.** That this ordinance shall be effective immediately upon enactment.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 6TH DAY OF SEPTEMBER, 2022.**

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Brent Johnson, Assembly President

ATTEST:

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Johni Blankenship, MMC, Borough Clerk

Yes:               None

No:                Bjorkman, Chesley, Cox, Derkevorkian, Ecklund, Elam, Hibbert, Tupper, Johnson

Absent:           None