

Introduced by: Smalley  
Date: 01/07/20  
Action: Adopted  
Vote: 9 Yes, 0 No, 0 Absent

**KENAI PENINSULA BOROUGH  
RESOLUTION 2020-004**

**A RESOLUTION SUPPORTING THE CITY OF KENAI'S REQUEST FOR THE KENAI PENINSULA BOROUGH TO SELECT THROUGH ITS MUNICIPAL ENTITLEMENT, LAND DESCRIBED AS T.6N., R.11W. SEC. 31, LOTS 40, 41, AND 42 CONTAINING 3.75 ACRES, FROM THE STATE OF ALASKA FOR THE CITY OF KENAI TO ENABLE THE CONTINUED MAINTENANCE AND OPERATION OF THE 4TH AVENUE MUNICIPAL PARK**

- WHEREAS,** the City of Kenai ("City") currently maintains 4<sup>th</sup> Avenue Park ("Park") in the City and has done so since the 1970's; and
- WHEREAS,** the City's maintenance of the Park enhances not only the aesthetics and recreational opportunities in the neighborhood for residents and visitors, but also protects public safety; and
- WHEREAS,** the United States Bureau of Land Management ("BLM") reasserted ownership of the Park in 2000, recording its decision in 2018, and recently purported to grant its ownership to the State of Alaska; and
- WHEREAS,** the property on which the Park sits was originally patented from the BLM to the North Kenai Home Owners Association ("HOA") with the restriction that it could only be used for playground purposes and could not be further conveyed without BLM consent; and
- WHEREAS,** in 1978 the Kenai Peninsula Borough foreclosed on the property for non-payment of property taxes and a Clerk's Deed was issued to the City; and
- WHEREAS,** the Bureau of Land Management's decision to re-assert ownership of the Park based on "conveyance" to the City by the HOA ignores the decision by the Kenai Superior Court granting title to the City, the borough's statutorily authorized foreclosure process, and decades of management and oversight by the City; and
- WHEREAS,** neither the federal government nor state has provided any maintenance or management activities on the parcel; and
- WHEREAS,** rather than litigate the issue with the federal government, the City's legal department worked with the federal government, state, and the Kenai Peninsula Borough Planning Department to map out a less expensive and more timely process moving forward, for the borough to select the parcel from the state through its

municipal entitlement pursuant to AS 29.65.010, and reconvey it at no cost to the City; and

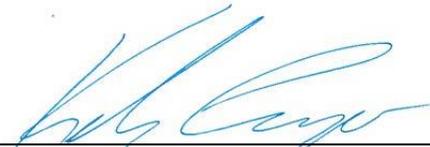
**WHEREAS,** the borough was granted in excess of 150,000 acres of municipal entitlement, and selecting less than four acres for the City is de minimis in this regard and will benefit the public users of the Park;

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

**SECTION 1.** That the Kenai Peninsula Borough is respectfully requested to move forward with selection of T.6N., R.11W. SEC. 31, Lots 40, 41, and 42 containing 3.75 acres through its municipal entitlement.

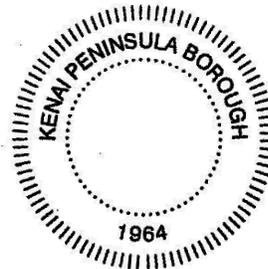
**SECTION 2.** That this resolution takes effect immediately upon its adoption.

**ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 7TH DAY OF JANUARY, 2020.**

  
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Kelly Cooper, Assembly President

ATTEST:

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



Yes: Bjorkman, Blakeley, Carpenter, Cox, Dunne, Hibbert, Johnson, Smalley, Cooper  
No: None  
Absent: None