

Kenai Peninsula Borough Assembly

MEMORANDUM

TO: Kelly Cooper, Assembly President
Members, Kenai Peninsula Borough Assembly

FROM: Hal Smalley, Assembly Member *(H) for N.S.*

DATE: December 26, 2019

RE: Resolution 2020-004, Supporting the City of Kenai's Request for the Kenai Peninsula Borough to Select Through its Municipal Entitlement, Land Described as T6N., R11W. 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 (Smalley)

The park located on 4th Avenue in the City of Kenai was originally patented by the Bureau of Land Management ("BLM") to the North Kenai Home Owners Association with the restriction that it could only be used for playground purposes. Also, it could not be conveyed without BLM's consent. Since the 1970's, the City of Kenai has maintained this park with no involvement or assistance by the state or federal governments.

In 1978 the borough foreclosed on this property for non-payment of property taxes and, as required by Alaska Statute 29.45.450, the clerk of court issued a Clerk's Deed conveying this property to the City of Kenai as it is located in the city limits. The BLM reasserted its ownership of this property in 2000, apparently because BLM's permission was not obtained to transfer this ownership. The BLM recorded its decision in 2018.

The City's legal department has worked with the federal and state governments, and with the borough planning department, to identify a resolution to this dispute without incurring litigation costs. It requests that the borough select this 3.75-acre parcel from the state as a part of its municipal entitlement, and convey it to the City of Kenai. The park is open to and used by the general public, and the borough does not have park powers in this area.

Your support of this resolution would be appreciated.