

Introduced by: Mayor
Date: 04/05/22
Hearing: 04/19/22
Action: Enacted as Amended
Vote: 8 Yes, 0 No, 1 Absent

**KENAI PENINSULA BOROUGH
ORDINANCE 2022-06**

**AN ORDINANCE AUTHORIZING THE NEGOTIATED SALE OF 180.281 ACRES IN
COOPER LANDING AS PART OF THE STERLING HIGHWAY MILE POST 45-60
REALIGNMENT PROJECT TO THE STATE OF ALASKA DEPARTMENT OF
TRANSPORTATION AND PUBLIC FACILITIES FOR A NEGOTIATED AMOUNT
OVER APPRAISED VALUE**

WHEREAS, the State of Alaska Department of Transportation and Public Facilities (DOT&PF) has a planned project for the realignment of that portion of the Sterling Highway located between Mileposts 45-60 and as a result has initiated right-of-way acquisition negotiations with property owners located within the proposed right-of-way realignment; and

WHEREAS, the Kenai Peninsula Borough (KPB) is the fee simple owner of those lands comprising Project Parcels 1, 2, 3, 16, 11, 13, 17, 18, 19A, 19B, 20, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31 and retains Municipal Entitlement Management Authority over Project Parcel 32 as further described in Section 1 of this Ordinance; and

WHEREAS, DOT&PF has contracted with Black-Smith, Bethard & Carlson, LLC (Anchorage) for independent third-party appraisals of the identified 180.281 acres of KPB land (Project Parcels) proposed as right-of-way under this project; and

WHEREAS, DOT&PF has presented to KPB a formal offer to purchase said right-of-way parcels for a negotiated amount of \$2,122,900.00, contingent upon assembly approval and a borough signed agreement by April 27, 2022; and

WHEREAS, entering into a negotiated sale with DOT&PF for the referenced right-of-way parcels aids in the mitigation of traffic safety concerns for the community of Cooper Landing, in addition to providing necessary efficiency and safety upgrades and utility to the Sterling Highway, benefitting borough residents and visitors; and

WHEREAS, the Cooper Landing Advisory Planning Commission, at its regular meeting of April 6, 2022, recommended approval by unanimous consent; and

WHEREAS, the Kenai Peninsula Borough Planning Commission, at its regular meeting of April 11, 2022, recommended approval by unanimous consent;

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

SECTION 1. That the real property described below is owned by or under Management Authority of KPB and is identified by DOT&PF as necessary right-of-way acquisitions for completion of the Sterling Highway MP45-60 project.

Project Parcel	KPB Parent Parcel ID	Classification	Appraisal Effective Date	Right of Way Acreage	Appraised Value
1, 2, 3, 16	11912509 11912614 11912612 11912610	Preservation	2/01/2022	13.279	\$44,200.00
11	11915007	Unclassified	10/25/2021	.28	\$13,700.00
13, 17	11912704	Preservation	2/01/2022	74.167	\$736,400.00
18	11907126	Preservation	12/03/2021	9.177	\$113,300.00
19A, 19B, 20	11907128 11907101	Recreational Preservation	2/01/2022	51.363	\$359,900.00
22	11907133	Recreational	12/03/2021	1.378	\$12,100.00
23	11907136	Residential	12/03/2021	.525	\$9,000.00
24	11907137	Residential	12/03/2021	1.103	\$32,100.00
25	11907138	Residential	12/03/2021	1.631	\$63,900.00
26	11907139	Residential	12/03/2021	1.667	\$55,700.00
27	11907140	Residential	12/03/2021	2.259	\$58,500.00
28	11907141	Residential	12/03/2021	2.325	\$54,900.00
29	11907142	Residential	12/03/2021	.406	\$26,100.00
30, 31	11907144 11907143	Recreational Preservation	12/03/2021	16.457	\$127,400.00
32	11907501(MA)	Recreational Preservation	2/01/2022	4.264	\$15,000.00
			Total:	180.281	\$1,722,200.00

(MA=Municipal Entitlement Management Authority)

SECTION 2. That the assembly finds that conveying the right-of-way areas defined as the project parcels in Section 1, according to the terms in Section 4, is in the best interest of the borough based on the following:

- a. The KPB Assembly adopted Resolution 2016-049 supporting the subject Juneau Creek Alternative for the Sterling Highway Milepost 45-60 Realignment Project.
- b. KPB will receive adequate and just compensation for the conveyance of the right-of-way parcels and associated impacts.

- c. Disposal of subject project parcels to DOT&PF is consistent with the 1996 Cooper Landing Land Use Plan.
- d. The proposed sale would result in necessary efficiency and safety upgrades to the Sterling Highway benefiting residents and visitors to the borough.

SECTION 3. That the assembly 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 KPB 17.10.110 advertising requirement is to notify the public of an opportunity to purchase or lease KPB land. Advertising this negotiated sale to DOT&PF will not serve a useful purpose, as DOT&PF is a state governmental agency and the only entity able to accomplish the safety upgrades to the Sterling Highway. Compliance with the advertising requirement would cause delays that negatively impact the project and may impose unnecessary expense on KPB.
- 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. For this negotiated sale to DOT&PF, a state governmental agency, an exception to the notice requirement is necessary to keep the Sterling Highway Milepost 45-60 Realignment Project on track without unnecessary delay. As such, it furthers the preservation and enjoyment of KPB’s property right and governmental interest to ensure the efficiency and safety of the Sterling Highway which will benefit KPB’s residents and visitors.
- 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 proposed disposition is advertised by publication of the ordinance in newspapers of general circulation and on the borough’s web page. Notice of the proposed disposition is also published by the Planning Commission agenda in newspapers of general circulation, and a public hearing is held at the Planning Commission level. Additional notice is not necessary to comply with the intent of KPB 17.10 or to protect the public welfare. An exception to the notice requirement will support the welfare of the general public by reducing the delay of the overall Sterling Highway Milepost 45-60

Realignment Project which, in turn, will support the welfare of the general public through necessary safety and efficiency upgrades to the Sterling Highway.

SECTION 4. That 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 State of Alaska Department of Transportation and Public Facilities for the negotiated sales price of \$2,122,900.00. DOT&PF shall be responsible for any and all related closing costs and recording fees. All other applicable terms and conditions of KPB 17.10 shall apply to this sale unless inconsistent with this ordinance.

SECTION 5. That all sale proceeds shall be deposited into the Land Trust Investment Fund.

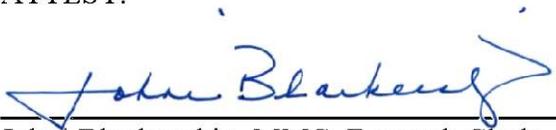
SECTION 6. That the Mayor is authorized to sign any document necessary to effectuate this ordinance.

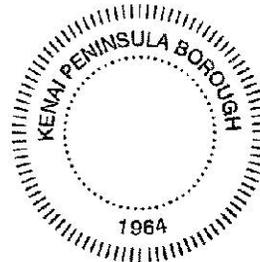
SECTION 7. This ordinance is effective immediately upon enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 19TH DAY OF APRIL, 2022.


Brent Johnson, Assembly President

ATTEST:


Johni Blankenship, MMC, Borough Clerk



Yes: Bjorkman, Chesley, Cox, Derkevorkian, Ecklund, Hibbert, Tupper, Johnson
No: None
Absent: Elam