

Introduced by: Mayor at request
Date: 08/04/98
Hearings: 08/18/98 and 09/01/98
Action: Enacted as Amended
Vote: 8 Yes, 0 No, 1 Absent

**KENAI PENINSULA BOROUGH
ORDINANCE 98-42**

**AN ORDINANCE AUTHORIZING THE CONVEYANCE OF THE REAL PROPERTY
ASSOCIATED WITH THE FORMER HOMER INTERMEDIATE SCHOOL TO THE
CITY OF HOMER AT OTHER THAN FAIR MARKET VALUE**

WHEREAS, the borough is the owner of the real property known as the former Homer Intermediate [Middle] School located at the corner of the Sterling Highway and Pioneer Avenue in Homer, Alaska; and

WHEREAS, the property comprises four parcels that Homer area residents separately donated to the territorial school, the Parent Teacher Association of Homer and to the Territory of Alaska in the 1940's and 1950's, which were then transferred to the borough in 1974; and

WHEREAS, the real property known as the former Homer Intermediate [Middle] School is surplus to Kenai Peninsula Borough School District and Borough Administration needs; and

WHEREAS, the University of Alaska, Anchorage (UAA) has renovated the second floor of the former Intermediate [Middle] School building for use by the Kachemak Bay Branch of the Kenai Peninsula College, and the deed to the City of Homer will be subject to a lease between the borough and UAA; and

WHEREAS, the City of Homer has requested that the borough convey to it for a nominal sum the land and buildings occupied by the former Homer Intermediate [Middle] School, which is presently classified by the City of Homer as public government lands, and is assessed at \$3,203,200 including land at \$703,200 and improvements at \$2,500,000; and

WHEREAS, a July 1998 site survey conducted by Architects Alaska estimated renovation costs of one of the two buildings on this parcel to be \$465,780 and demolition costs to be \$190,500; and

WHEREAS, the City of Homer desires to allow public use of the gym and associated rest room facilities of the former Homer Intermediate [Middle] School, and has park and

recreation powers while the borough lacks such powers in the City of Homer; and

WHEREAS, conveyance of the real property known as the former Homer Intermediate [Middle] School to the City of Homer will facilitate continued use of the property for community purposes and relieve the borough of the time and cost to upgrade, maintain and administer the facility; and

WHEREAS, the land is deposited into the land bank; and

WHEREAS, the KPB Planning Commission at its regularly scheduled meeting of August 10, 1998 recommended the assembly enact the ordinance by unanimously consent.

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

SECTION 1. That the Assembly finds that conveying the real property known as the former Homer Intermediate [Middle] School and located on a portion of the E½ Section 19, T6S, R12W, S.M., in the Homer Recording District, Third Judicial District, State of Alaska (Assessor Parcel No. 175-100-05) to the City of Homer at other than fair market value is in the best interest of the public and the Borough. This finding is based on the following facts:

- a. The real property known as the former Homer Intermediate [Middle] School is surplus to Kenai Peninsula Borough School District and Borough Administration needs.
- b. While the second floor and the gym of the former Homer Intermediate [Middle] School are in excellent condition, continued ownership of this facility will subject the borough to continuing maintenance expenses, and will eventually require the borough to either demolish all or a portion of the building, or incur significant expenses in refurbishment to comply with the Americans with Disabilities Act or other applicable laws.
- c. The land will be used for a public purpose beneficial to the general public.
- d. There is a large demand from the public for use of the gym at the former Homer Intermediate [Middle] School, and the City of Homer is the appropriate entity to properly manage the facility for community purposes as the city has park and recreation powers while the borough presently lacks such powers inside the Homer city limits.

SECTION 2. The mayor is authorized, pursuant to KPB 17.10.100 (I), Negotiated Sale or Lease, to negotiate the sale of the former Homer Intermediate [Middle] School located on a portion of the E½ Section 19, T6S, R12W, S.M., in the Homer Recording District, Third Judicial District, State of Alaska (Assessor Parcel No. 175-100-05) to the City of Homer at other than market value subject to the sale conditions required by this ordinance and the applicable provisions of KPB 17.10 and subject to terms and conditions of the Purchase

Agreement. The sale price shall be \$1.00. The land shall be conveyed by Quitclaim Deed subject to a restriction providing that the site shall be owned in perpetuity by the City of Homer or its successor and be managed for the use and benefit of the general public. The City of Homer is to honor the initial lease agreement between the borough and UAA, Kachemak Bay Campus. The authorization is for negotiation solely with the City of Homer, and it may not assign any rights to negotiate or enter an agreement for sale to any other person or entity.

SECTION 3. The City of Homer shall plat into one tract as a condition of conveyance the former Homer Intermediate [Middle] School site, also described as Assessor Parcel No. 175-100-05.

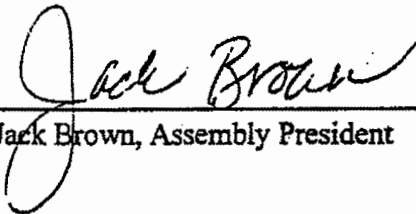
SECTION 4. Pursuant to KPB 17.10.230, that the Assembly authorizes an exception to the requirements of KPB 17.10.090, Disposition of borough land; KPB 17.10.110, Notice of disposition; and KPB 17.10.130(D), Conveyance of land based on the following facts:

- a. This is an intergovernmental conveyance for a public purpose.
 - (1) The former Homer Intermediate [Middle] School parcel is not classified pursuant to KPB 17.10.080. Authorizing an exception to KPB 17.10.090 allows conveyance of the site without classifying the site. Classifying the site is a redundant step as the land is zoned public/government by the City of Homer.
 - (2) KPB 17.10.110, Notice of Disposition requires publishing notice of the sale four times in the thirty day period immediately preceding the date of the sale. This notice requirement is intended to make the public aware of an opportunity to purchase borough land and will not serve a useful purpose in this situation.
 - (3) KPB 17.10.130 (D) requires that lands or interests in lands be conveyed by an instrument containing restrictions that restrict the use of land to that classification and prohibit the use of the land for any other purpose. The City of Homer's zoning regulations and the deed restriction specified in Section 2 provide adequate requirements on how the former Homer Intermediate [Middle] School site may be used by the City of Homer.
- b. These exceptions are the most practical manner of complying with the intent of KPB 17.10 without incurring unnecessary expense.
- c. The granting of these exceptions will not be detrimental to the public welfare and will aid the public health, safety, and welfare.

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

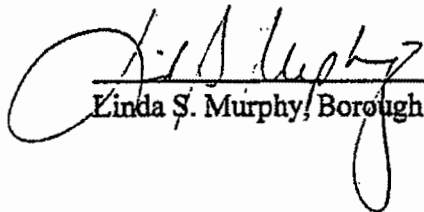
SECTION 6. That this ordinance shall take effect immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 1ST DAY OF SEPTEMBER, 1998.



Jack Brown, Assembly President

ATTEST:



Linda S. Murphy, Borough Clerk

