



# **KENAI PENINSULA BOROUGH**

PLANNING DEPARTMENT

144 North Binkley Street • Soldotna, Alaska 99669-7520

**PHONE:** (907) 714-2200 • **FAX:** (907) 714-2378

Toll-free within the Borough: 1-800-478-4441, Ext. 2200

[www.borough.kenai.ak.us](http://www.borough.kenai.ak.us)

**MIKE NAVARRE  
BOROUGH MAYOR**

## **MEMORANDUM**

**TO:** Dale Bagley, Assembly President  
Kenai Peninsula Borough Assembly Members

**THRU:** Mike Navarre, Borough Mayor *mn*

**FROM:** Max Best, Planning Director *MB*

**DATE:** June 10, 2015

**SUBJECT:** Ordinance 2015-17; authorizing retention or sale of certain real property obtained by the Kenai Peninsula Borough through Tax Foreclosure proceedings.

The Kenai Peninsula Borough Planning Commission reviewed the subject ordinance during their regularly scheduled June 8, 2015 meeting. A motion passed by unanimous consent to recommend approval of the ordinance authorizing retention or sale of certain real property obtained by the Kenai Peninsula Borough through Tax Foreclosure proceedings.

In the Ordinance, please make the following amendment to the last WHEREAS statement:

*WHEREAS, the Planning Commission conducted a public hearing on June 8, 2015 and recommended approval by unanimous consent.*

Attached are the unapproved minutes of the subject portion of the meeting.

AGENDA ITEM F. PUBLIC HEARINGS

1. Ordinance 2015-17; authorizing retention or sale of certain real property obtained by the Kenai Peninsula Borough through Tax Foreclosure proceedings.

Memorandum given by Marcus Mueller

PC Meeting: June 8, 2015

Pursuant to KPB 17.10.100(A) and tax foreclosure proceedings pursuant to AS 29.45.290 et. seq. the borough has received Clerk's Deeds for the real property listed in the subject ordinance. Notice of the sale is sent to the last owner(s) of record by certified mail within five days after the first publication of the hearing on the ordinance as per AS 29.45.460(c).

A preliminary list of parcels proposed for the 2015 auction was sent for review and comment to the KPB School District, all KPB administrative departments, cities, and KPB Service Areas. The subject ordinance authorizes 78 parcels to be sold by public outcry auction as shown on Exhibit B. The number of parcels to be sold or retained will change if taxes are paid.

Five parcels are proposed for retention for a public purpose with a recommendation of a preservation classification as shown on Exhibit A. The public purpose is cited as being wetlands. These happen to be parcels that are within the subdivision in Happy Valley that others have been retained in the past.

There are 78 parcels on the tax foreclosure list as cited on Exhibit B. Included in the packet for reference was a table of parcel map links utilizing the borough's parcel viewer.

The tax foreclosure auction is scheduled for Saturday October 24, 2015 in the Soldotna High School Auditorium. The KPB Planning Commission will consider this ordinance at its regularly scheduled meeting of June 8, 2015 and the action taken will be reported to the Assembly.

Tax Foreclosure is a serious topic. It is strictly guided by state statutes as stated in 21.45. Tax Foreclosure is the tax enforcement mechanism that is employed throughout the country.

There are two options in the Borough system. When properties come in through tax foreclosure they are by statute either offered for auction or retained for public purpose. The objective with tax foreclosure and the tax foreclosure auction is simply tax collection. The amounts that are the minimum bids amounts is that which is owed due to the back taxes, fees, penalties, and interest that have accrued. If a parcel sells in the tax foreclosure auction for more than that amount then the last record owner has the right to claim those excess proceeds.

Something else to note is that staff is very hopeful for payoffs. The landowners get notices that tax foreclosure is beyond imminent to the point of sale when it comes into this part of the tax foreclosure cycle so they see a lot of activity with properties being paid off. This is part of the enforcement mechanism that works itself out.

The Borough Finance Department has a delinquent accounts section and they go through quite a process before they are put on a tax foreclosure list. The properties that are on this list are from the 2012 tax year. This process is laid out in State Statutes, 29.65. The process entails the landowners being sent notices and phone calls to try to bring these properties up to date. They make a diligent effort to contact the last record owner or whoever they can find who is associated with the properties.

The properties on the tax foreclosure list are actually a very small percentage of the 60,000 parcels that are in the Borough. This is a system that seems to maintain tax foreclosure as a last resort.

END OF MEMORANDUM & STAFF REPORT

Chairman Martin opened the meeting for public comment. Seeing and hearing no one wishing to speak Chairman Martin closed the public comment period and opened discussion among the Commission.

Commissioner Holsten agreed that the parcels that are in the wetlands should be kept as public purpose. She asked how they handle a property owner claiming that the property could have made more money than what staff was claiming it was worth if the property was sold. Mr. Mueller replied that the property would be considered a special category according to State Statues when a property goes on the retention list. The Land Trust fund pays off what is due on the property and those properties don't go to auction and don't get the opportunity to generate an excess proceed. There is a potential interest of that last record owner that never manifests because it doesn't go to auction. He stated that it is a call that they make to retain properties for public purpose. The statutes lay out the process for the authorities to declare properties to be retained for public purposes. In this case, the factor that they are looking at is that these properties are essentially 100% wetland so there is not potential for any kind access infrastructure. When they are looking at these properties they try to look at them across a range of uses including uses that are beyond residential like hunting and fishing. It is the nature of the wetlands in this case, that staff recommends retaining the properties for that purpose.

Commissioner Glendening asked if Preservation was the only designator in this classification. Mr. Mueller replied that Preservation is one title for lands of this type. Another classification would be Rural which would cover anything. Another one would be Recreation which could be used for hunting, fishing, snowmachining, etc. He stated that Preservation is not the only designator but it was the one that they recommended in the context of the public purpose. Commissioner Glendening asked if Preservation and Conservation in this context actually meant the same thing. Mr. Mueller replied that was correct. Chairman Martin stated that it wasn't a land classification issue, it's a designation. Mr. Mueller replied that it was the proposed classification of Preservation and Conservation within the scope of the ordinance. Chairman Martin asked if the property could be classified Government if it was local for a school. Mr. Mueller replied that was correct. Chairman Martin stated that could be where a property owner could come back and say if the property was sold then they could get their proceeds. Mr. Mueller replied yes, that is correct.

Chairman Martin asked how often the six month grace period expires before the landowners come and collect their funds. Mr. Mueller replied that foreclosure happens in 25-30% based on past experience. There tends to be properties on the list where there is no one to speak for them.

Commissioner Ecklund called a point of order to put this on the floor for further discussion.

**MOTION:** Commissioner Ecklund moved, seconded by Commissioner Holsten to recommend approval of KPB Ordinance 2015-17; authorizing retention or sale of certain real property obtained by the Kenia Peninsula Borough through Tax Foreclosure proceedings.

Commissioner Ecklund asked why this was the first time a tax foreclosure sale was brought to them to recommend approval. Mr. Mueller replied that the last tax foreclosure ordinance that was done was in 2013. This year covers two years of tax foreclosure. If there aren't enough properties in the list to warrant the overhead costs of connecting the sale then the years will be doubled up.

**VOTE:** The motion passed by unanimous consent.

CARLUCCIO YES	COLLINS YES	ECKLUND YES	ERNST ABSENT	FOSTER YES	GLENDENING YES	HOLSTEN YES
ISHAM YES	LOCKWOOD ABSENT	MARTIN YES	RUFFNER YES	VENUTI YES	WHITNEY YES	11 YES 2 ABSENT

AGENDA ITEM G. ANADROMOUS WATER HABITAT PROTECTION (KPB 21.18) - None

AGENDA ITEM H. VACATIONS NOT REQUIRING A PUBLIC HEARING - None

AGENDA ITEM I. SPECIAL CONSIDERATIONS - None

AGENDA ITEM J. SUBDIVISION PLAT PUBLIC HEARINGS