

Introduced by: Mayor  
Date: 01/21/20  
Hearing: 02/04/20  
Action: Enacted as Amended  
Vote: 8 Yes, 0 No, 1 Absent

**KENAI PENINSULA BOROUGH  
ORDINANCE 2020-04**

**AN ORDINANCE AUTHORIZING THE MAYOR TO SELECT A PARCEL OF LAND  
IN THE CITY OF KENAI THROUGH THE KENAI PENINSULA BOROUGH'S  
MUNICIPAL ENTITLEMENT LAND GRANT AND AUTHORIZING THE  
CONVEYANCE OF THE PARCEL TO THE CITY OF KENAI FOR A MUNICIPAL  
PARK**

- WHEREAS,** City of Kenai Resolution No. 2019-83, dated December 18, 2019, requested that the borough select Kenai Peninsula Borough parcel #043-050-17 through the state municipal entitlement program and convey the parcel to the City of Kenai in order to return ownership of the parcel to the City of Kenai in an efficient and timely manner; and
- WHEREAS,** the 3.75-acre parcel #043-050-17 is legally described as Government Lots 40, 41, and 42 within Section 31, T. 6N., R. 11W., S.M., Kenai Recording District, Third Judicial District, 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,** the parcel was transferred to the City of Kenai in 1978 by Clerk’s Deed through tax foreclosure by the Kenai Peninsula Borough (BK 126, PG 786-788, Kenai Recording District); and
- WHEREAS,** subsequent to the City of Kenai receiving the parcel through Clerk’s Deed, the United States Bureau of Land Management re-asserted ownership of the parcel through a reversionary provision of the original patent to North Kenai Home Owners Association, Inc.; and
- WHEREAS,** the State of Alaska, pursuant to Section 6(b) of the Alaska Statehood Act of July 7, 1958, Pub. L. 85-508, 72 Stat. 339, as amended, selected the lands and subsequently received patent to the lands (#50-2019-0040) on January 25, 2019; and
- WHEREAS,** the City of Kenai currently maintains the 4<sup>th</sup> Avenue Park on the property and has done so since the 1970s; and

**WHEREAS,** within the 2016 Imagine Kenai 2030 Comprehensive Plan, Object 2 of Goal 6 is to maintain existing recreational opportunities and plan for new parks and recreation improvements; and

**WHEREAS,** the 4<sup>th</sup> Avenue Park is included within the City of Kenai’s inventory of parks and recreational areas, including on the city’s website and within the 2016 Imagine Kenai 2030 Comprehensive Plan, with the listed amenities of a playground, basketball court, shelter, barbecue grill, and baseball field; and

**WHEREAS,** acquisition of parcel #043-050-17 by the borough and conveyance to the City of Kenai would further Goal 6, Objective 2 of the 2016 Imagine Kenai 2030 Comprehensive Plan; and

**WHEREAS,** the Kenai Peninsula Borough (KPB) is entitled to select 155,780 acres of land under AS 29.65.010 municipal general land grant entitlement; and

**WHEREAS,** the KPB, as of this date, has a remaining entitlement of approximately 13,000 acres; and

**WHEREAS,** the 3.75-acre parcel #043-050-17 has an assessed value of \$56,000; and

**WHEREAS,** the Kenai Peninsula Borough Planning Commission held a public hearing on January 27, 2020 and recommended approval by unanimous consent;

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

**SECTION 1.** That the mayor is authorized to submit an application pursuant to AS 29.65.010 to the State of Alaska Department of Natural Resources for parcel #043-050-17, legally described as Government Lots 40, 41, and 42 within Section 31, T. 6N., R. 11W., S.M., Kenai Recording District, Third Judicial District, State of Alaska.

**SECTION 2.** That pursuant to KPB 17.10.120(D) the Assembly finds that conveying the above-described property at less than fair market value to the City of Kenai for continued use as a park is in the best interest of the borough.

This finding is based on the following facts:

- a. The conveyance will benefit borough residents by allowing the continuation of a municipal park within the City of Kenai that will be available to both city and non-city residents.
- b. The City of Kenai will be responsible for the costs of maintenance and operation of the park for the benefit of the city and other borough residents.


- c. Charging fair market value for this property would preclude the use of such funds for the maintenance and operation of the park.
- d. The offer to convey the above-described property must be accepted within 60 days after enactment of this ordinance.

**SECTION 3.** The mayor is authorized, pursuant to KPB 17.10.100(D), (E), and (I) to convey property to the City of Kenai as described in Section 1 above for the sum of \$1. Borough land shall be conveyed to the City of Kenai by Quitclaim Deed. The City of Kenai shall be responsible for title insurance and any other closing costs.


**SECTION 4.** There shall be a restriction placed on the deed to the City of Kenai. The deed restriction shall require that the parcel be used as a park only and that it not be limited to use by Kenai residents but rather shall be open to the general public. If at any time the parcel is used for purposes other than a park, the parcel shall revert to the borough.

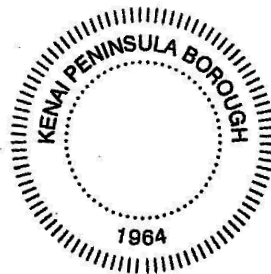
**SECTION 5.** This ordinance shall become effective immediately upon its enactment.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 4TH DAY OF FEBRUARY, 2020.**

  
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 Kelly Cooper, Assembly President

ATTEST:

  
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 Johni Blankenship, MMC, Borough Clerk



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