

Introduced by: Mayor  
Date: 06/19/12  
Hearing: 08/07/12  
Action: Enacted as Amended  
Vote: 9 Yes, 0 No, 0 Absent

**KENAI PENINSULA BOROUGH  
ORDINANCE 2012-19-16**

**AN ORDINANCE APPROVING THE ACQUISITION OF REAL PROPERTY ALONG SALMON CREEK FOR FLOOD MITIGATION AND APPROPRIATING \$27,700 FROM SEWARD BEAR CREEK FLOOD SERVICE AREA FOR THE ACQUISITION OF FOUR PARCELS AND APPROVING A CONTRIBUTION FROM THE CONSERVATION FUND FOR THE ACQUISITION OF FIVE ADDITIONAL PARCELS ALONG SALMON CREEK**

**WHEREAS,** the Seward-Bear Creek Flood Service Area (SBCFSA) has identified nine parcels totaling 150.44 acres of land under common ownership which are important to flood mitigation; and

**WHEREAS,** at its October 3, 2011, meeting the SBCFSA board unanimously recommended the purchase of property owned by James Stewart for flood mitigation purposes; and

**WHEREAS,** discussions with the Army Corp of Engineers unveiled that compensatory wetland mitigation funds, known as in-lieu fees, may be available for this project through The Conservation Fund; and

**WHEREAS,** The Conservation Fund, a non-profit corporation organized for scientific, charitable and educational purposes, is willing to purchase and contribute to the Borough the remaining 5 parcels, subject to the requirement that the 5 parcels are protected by deed restriction for wetland habitat protection purposes; and

**WHEREAS,** at its June 18, 2012, meeting the SBCFSA board considered this ordinance and recommended enactment; and

**WHEREAS,** the Kenai Peninsula Borough Planning Commission at its regular scheduled meeting of July 16, 2012, recommended enactment by unanimous consent;

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

**SECTION 1.** That the purchase and acceptance of the following described real property on behalf of the Seward-Bear Creek Flood Service Area (SBCFSA) is in the best interest of the Borough:

Lots 1 through 12, Block 1; Lots 2 through 5, Block 3; and Lots 12 through 19, Block 4 of The STEWART SUBDIVISION, according to the official plat thereof, filed under Plat Number S-11, records of the Seward Recording District, Third Judicial District, State of Alaska,

EXCEPTING THEREFROM that portion of Lot 5, Block 3 and those portions of Lots 18 and 19, Block 4 acquired by the State of Alaska for Nash Road by Declaration of Taking recorded January 25, 1971 in Book 50 at Page 186;

AND

That portion of the West One-half (W<sup>1</sup>/<sub>2</sub>) of the West One-half (W<sup>1</sup>/<sub>2</sub>) of Section 26, Township 1 North, Range 1 West, Seward Meridian, records of the Seward Recording District, Third Judicial District, State of Alaska, more particularly described as follows:

All of that land lying in that certain 940 foot strip of land constituting the remainder of the West One-half (W<sup>1</sup>/<sub>2</sub>) of the West One-half (W<sup>1</sup>/<sub>2</sub>) of said Section, lying west of the Stewart Subdivision, Plat S-11, and lying North and West of the Alaska Railroad Right- of-way, and which is East of the center line of Clear Creek or its projection thereof into Salmon Creek;

EXCEPTING THEREFROM that portion conveyed to MARY ANN BALMAT, by Warranty Deed recorded October 24, 1951 in Book 15 at Page 295;

FURTHER EXCEPTING THEREFROM the BOGARD SUBDIVISION, according to Plat S-89, Seward Recording District, Third Judicial District, State of Alaska; and

FURTHER EXCEPTING THEREFROM Lot 29A and Tract L-1, FOLZ SUBDIVISION, CONANT REPLAT, according to Plat 2003-5, Seward Recording District, Third Judicial District, State of Alaska.

**SECTION 2.** That this acquisition is for the purpose of wetland preservation and flood mitigation.

**SECTION 3.** That the proposed classification of this land is government.

**SECTION 4.** That the terms and conditions substantially in the form of the Purchase Agreement accompanying this ordinance are hereby approved.

**SECTION 5.** That \$27,700 is appropriated from SBCFSA fund balance 259.00000.00000.27910 into account 259.21212.00000.48610 for the purpose of this acquisition.

**SECTION 6.** The land acquired by Kenai Peninsula Borough on behalf of the SBCFSA is as follows:

Parcel ID	Acres	Purchase Price	Funding Source
14412037	4.10	\$2,300	SBCFSA
14412038	3.00	\$1,900	SBCFSA
14412019	2.50	\$12,700	SBCFSA
14403014	53.00	\$10,200	SBCFSA
Est. Closing Cost	N/A	\$600	SBCFSA
<b>TOTAL</b>	<b>62.6</b>	<b>\$27,700</b>	

**SECTION 7.** The land being accepted from The Conservation Fund (TCF) is as follows:

Parcel ID	Acres	Donated Value	Funding Source
14411002	8.19	\$25,400	TCF
14411001	35.78	\$43,000	TCF
14412018	33.93	\$89,600	TCF
14412035	4.97	\$37,800	TCF
14412036	4.97	\$18,300	TCF
Est. Closing Cost	N/A	\$1,600	TCF
<b>TOTAL</b>	<b>87.84</b>	<b>\$215,700</b>	

**SECTION 8.** That the mayor is authorized to execute the purchase agreement substantially in the form of the one accompanying this ordinance, and any and all documents necessary to effectuate this ordinance and accept the land donated by The Conservation Fund.

**SECTION 9.** This ordinance shall take effect immediately upon enactment.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 7TH DAY OF AUGUST, 2012.**

  
 Gary Knopp, Assembly President

ATTEST:

  
 John Blankenship, Borough Clerk



Yes: Haggerty, Johnson, McClure, Murphy, Pierce, Smalley, Smith, Tauriainen, Knopp  
No: None  
Absent: None