

Introduced by:	Mayor
Substitute Introduced:	10/26/10
O2010-36 (Mayor)	See Original for prior history
Hearings:	10/26/10 and 01/04/11
Action:	Postponed Until 01/04/11
Date:	01/04/11
Action:	Enacted as Amended
Vote:	9 Yes, 0 No, 0 Absent

**KENAI PENINSULA BOROUGH
ORDINANCE 2010-36
SUBSTITUTE (MAYOR)**

**AN ORDINANCE AUTHORIZING THE NEGOTIATED LEASE AT LESS THAN FAIR
MARKET VALUE OF CERTAIN REAL PROPERTY TO THE KENAI PENINSULA
RACING LIONS**

- WHEREAS,** the Kenai Peninsula Borough (KPB) owns the property described in Section 1 of this ordinance encompassing the facility commonly known as Twin City Raceway; and
- WHEREAS,** the State of Alaska entered into a lease of 45 acres of land with the City of Kenai for Recreational purposes on April 24, 1972, which was subsequently assigned to various recreation motor sports interests; and
- WHEREAS,** the State of Alaska approved the borough's municipal entitlement selection of the subject land on January 28, 1982, at which time the 45-acre recreational lease was held by Twin City Raceway, Inc; and
- WHEREAS,** the lease lapsed in 2002 and since that time the Kenai Peninsula Racing Lions have operated the former leased premises under borough issued land use permit; and
- WHEREAS,** the Kenai Peninsula Racing Lions have submitted an application for negotiated sale or lease at less than fair market value of approximately 97 acres; and
- WHEREAS,** in May 2009 the KPB Assessing Department estimated the fair market value of the subject 157 acres at \$125,000; and
- WHEREAS,** the subject land is classified as Recreational pursuant to KPB Resolution 96-057; and
- WHEREAS,** the subject land is within the City of Kenai and is zoned Rural Residential; and
- WHEREAS,** entering into a negotiated lease of the property to the Kenai Peninsula Racing Lions for recreational motor sports purposes provides for the continuation of a facility that is beneficial to the public, while reducing the KPB's liability toward such activities; and

WHEREAS, the KPB Planning Commission at its regularly scheduled meeting of December 13, 2010, denied recommendation approval;

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

SECTION 1. That leasing approximately 97 acres, more or less, described as: a portion of the NE1/4 Section 36, T6N, R11W, S.M. Excepting Beaver Creek Alaska Subdivision according to Plat No. 81-101, subject to survey, to the Kenai Peninsula Racing Lions at other than fair market value, pursuant to KPB 17.10.100 (I) and 17.10.120 (D) is in the best interest of the borough based on the following findings of facts:

- A. The Kenai Peninsula Racing Lions and its predecessors have made substantial improvements and investments into the property which receive public enjoyment.
- B. The continuation of the regulated, organized, maintained, recreational motor sports facilities on the Central Peninsula benefits the health and safety of area residents.

SECTION 2. The assembly additionally makes an exception to KPB 17.10.110 (notice of disposition). This exception is based on the following findings of facts pursuant to KPB 17.10.230:

- 1. Special circumstances or conditions exist.
 - A. The purpose of the KPB 17.10.110 advertising requirement is to notify the public of an opportunity to purchase or lease KPB land, and advertising this negotiated lease to the Kenai Peninsula Racing Lions will not serve a useful purpose.

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. This exception to the notice requirement is not necessary to preserve a substantial property right, and the assembly hereby authorizes exception to that finding requirement. For this negotiated lease, the notice requirement is impractical, and compliance is not in the best interests of the borough due to the delay and unnecessary expense it would cause.
- 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 planned use as a recreational motor sports facility has been demonstrated since 1972 to be compatible with the site and other surrounding uses.
- B. 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.

SECTION 3. Based on the foregoing, the mayor is hereby authorized, pursuant to KPB 17.10.100 (I) to lease the land described in Section 1 above to the Kenai Peninsula Racing Lions for a period of 30-years at a rental rate of \$1.00 (One Dollar) per year subject to the terms and conditions of this ordinance and subject to the terms and conditions substantially similar to those contained in the lease accompanying this ordinance. The authorization is for lease solely to the Kenai Peninsula Racing Lions and it may not assign any rights to negotiate or enter an agreement for lease to any other person or entity.

All other applicable terms and conditions of KPB Chapter 17.10 shall apply to this lease unless inconsistent with this ordinance.

SECTION 4. The mayor is authorized to sign any documents necessary to effectuate this ordinance.

SECTION 5. The Kenai Peninsula Racing Lions shall have until 180 days after enactment of this ordinance to accept the mayor's offer by execution of a lease substantially in the form of the lease accompanying this ordinance.

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

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 4TH DAY OF JANUARY, 2011.

Gary Knopp, Assembly President

ATTEST:

Johni Blankenship, Borough Clerk

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