

Introduced by:	Mayor
Date:	05/15/01
Shortened Hearing:	06/05/01
Action:	Postponed until 06/19/01
Action:	Enacted as Amended
Vote:	9 Yes, 0 No
Date:	06/19/01

**KENAI PENINSULA BOROUGH
ORDINANCE 2001-16 (MAYOR) SUBSTITUTE**

AN ORDINANCE AUTHORIZING 27.5-YEAR GRAZING LEASE RENEWALS

WHEREAS, the borough has patent or final decision of 13,653 acres of municipal entitlement land on the southern peninsula in the Homer area that are subject to grazing leases issued by the State of Alaska; and

WHEREAS, land use plans are not completed for the area in which these leaseholds lie; and

WHEREAS, it is prudent stewardship of this valuable public asset for the borough to engage in long-term planning for the use of this land; and

WHEREAS, the borough is the management authority for these state-issued grazing leases which are facing expiration dates and contain options to renew for 27.5 years subject to certain conditions; and

WHEREAS, the lessees have expressed an interest in continuing the grazing leases and have submitted written notices or applications for 27.5 year renewals; and

WHEREAS, a grazing lease is a limited and unique type of lease for which the borough code does not have specific provisions; and

WHEREAS, grazing leases are intended for the purpose of grazing livestock and raising forage crops; and

WHEREAS, some lessees have engaged in additional activities on borough land which have not been authorized by the borough; and

WHEREAS, formal authorization, if appropriate, and conditions for both the grazing and other types of activities would best serve the borough's interest and protect this public asset;

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

SECTION 1. The mayor is authorized to renew or extend the following grazing leases for no more than a 27.5-year period on new terms consistent with the terms and

conditions of this ordinance and applicable provisions of KPB 17.10.140(B), Lease-Types; 17.10.150, Lease-Terms and conditions; and 17.10.240, General conditions, and state laws and practices applicable to the grazing leases. Applicable state laws include the renewal provisions of former AS 38.05.100, and state laws and regulations in effect on the date of renewal. Borough code provisions shall prevail over any state statutes and regulations in conflict with the borough code.

ADL Number	Lessee	Acreage	Current Annual Payment
63238	Roberts assigned to Domela	480 acres - KPB 154.02 acres - DNR	\$38.40
63239	Fred and Charlotte Boden	1170.64 acres	\$60.42
63240	Garcia, Ward and Johnson	2560.0 acres	\$129.08
63241	Leo Rollins	2560 acres	\$664.00
63242	Neil Kinney	1760 acres	\$88.60
63244	Garcia, Ward and Johnson	2561.76 acres	\$129.08
63248	Cecil R. & Ina L. Jones	2560 acres	Payments made to the State

The legal descriptions associated with each lease are as follows:

ADL Number 63238: Lots 2, 3, S1/2NE1/4, SE1/4NW1/4, NE1/4SW1/4, N1/2SE1/4 of Section 30 located in Township 5 South, Range 13 West, Seward Meridian, and the N1/2, N1/2S1/2 of Section 25 located in Township 5 South, Range 14 West, Seward Meridian, containing 784.02 acres, more or less.

ADL Number 63239: Township 5 South, Range 14 West, Seward Meridian.

Sec 1: Lots 1, 2 & 3, S1/2NE1/4, SE1/4NW1/4, NE1/4SW1/4, S1/2SW1/4, and SE1/4.

Sec 11: SE1/4, S1/2NE1/4, NE1/4NE1/4, NE1/4SW1/4, and S1/2SW1/4.

Sec 12: W1/2, and NW1/4NE1/4. Containing 1,280.64 acres, more or less.

EXCEPTING THEREFROM:

Township 5 South, Range 14 West, Seward Meridian

Sec 1: SE1/4NE1/4SE1/4NE1/4, SE1/4SE1/4NE1/4, SE1/4SW1/4SE1/4NE1/4, NW1/4NE1/4NE1/4SE1/4, NE1/4NW1/4NE1/4SE1/4, S1/2NW1/4NE1/4SE1/4, SW1/4NE1/4SE1/4, W1/2NW1/4SE1/4SE1/4, W1/2SW1/4SE1/4SE1/4, SE1/4NE1/4SW1/4SE1/4, and E1/2SE1/4SW1/4SE1/4. Containing 52.5 acres, more or less.

Sec 12: N1/2NE1/4NW1/4NE1/4, SW1/4NE1/4NW1/4NE1/4, SE1/4NW1/4NW1/4NE1/4, W1/2SE1/4NW1/4NE1/4, E1/2SW1/4NW1/4NE1/4, NE1/4NE1/4NE1/4SW1/4, S1/2NE1/4NE1/4SW1/4, SE1/4NE1/4SW1/4, and E1/2SE1/4SW1/4. Containing 57.5 acres more or less.

ADL Number 63240: All of Section 13, All of Section 14, All of Section 23 and All of Section 24 located in Township 4 South, Range 13 West, Seward Meridian, containing 2,560 acres, more or less.

ADL Number 63241: All of Section 15; All of Section 22; All of Section 26 and All of Section 27 located in Township 4 South, Range 13 West, Seward Meridian, containing 2,560 acres, more or less.

ADL Number 63242: All of Section 21; All of Section 28 and the NE1/4, S1/2 of Section 29 located in Township 4 South, Range 13 West, Seward Meridian, containing 1,760 acres, more or less.

ADL Number 63244: Lots 1, 2, 3, 4, S1/2N1/2, S1/2 of Section 1; Lots 1, 2, 3, 4, S1/2N1/2, S1/2 of Section 2; All of Section 11 and All of Section 12 located in Township 4 South, Range 13 West, Seward Meridian, containing 2,561.76 acres, more or less.

ADL Number 63248: All of Section 3; All of Section 4; All of Section 9 and All of Section 10 located in Township 4 South, Range 11 West, Seward Meridian, containing 2,560 acres, more or less.

SECTION 2. Upon the expiration date of the seven leases subject to this ordinance in July 2001, and appropriate fee, the mayor is authorized to either renew or extend the above-described grazing leases subject to the following requirements, all of which shall be completed within the first two years:

1. Lessee shall prepare a development plan in cooperation with the Soil and Water Conservation District which shall be approved by the borough mayor, and which shall provide for reasonable use and development of the grazing lease property and shall be attached and incorporated by reference to the grazing lease;
2. The mayor shall determine the survey status of each lease and may, in the best interests of the borough, either conduct, or require the lessee to conduct, a survey if reasonably necessary to establish boundaries;
3. Pursuant to KPB 17.10.100(I) authorizing negotiated leases, the mayor shall charge an annual fee for the lease based either upon animal unit months or other recognized industry standards, or an appraisal done either by the assessing department or by a fee appraiser to determine the current fair market value of the lease, with rate adjustments to be made every five years based upon reappraisals or other relevant information; and
4. Such other terms and conditions as the mayor deems reasonably necessary for proper administration of the grazing leases, consistent with applicable law.

SECTION 3. The mayor is authorized to negotiate the allowance of uses compatible with grazing that do not harm the borough's interest, in which the lessee or other applicant currently engages on the leasehold. Such uses are subject to application, approval by the mayor with appropriate conditions, and may be authorized by land use permit, and KPB 17.10 as appropriate.

SECTION 4. Pursuant to KPB 17.10.230 an exception to KPB 17.10.090 requiring classification prior to lease of borough lands is granted based on the following findings:

Standards: 1) That special circumstances or conditions exist; 2) 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; 3) That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the area.

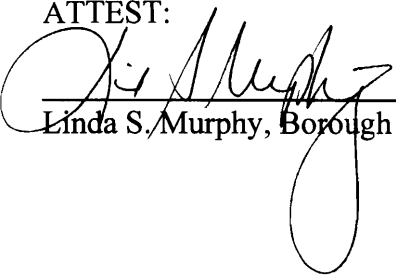
Findings: Special circumstances exist in that the lands are already subject to long term leases with the state of Alaska, and the borough's lease would continue a previously authorized use for grazing purposes. There are renewal provisions for the grazing leases which allow leases in good standing to be renewed for an additional term and the original terms expire in July 2001. Therefore granting an exception to classifying the land prior to lease protects the interest of the lessees in their renewals. The granting of the exception is not injurious to the public welfare or other property in the area as the leases allow a use that has been ongoing for a number of years, the land is in large rural parcels and granting the exception to classification at this time will not have an impact on adjacent parcels. The borough intends to bring a classification resolution forward consistent with the requirements of KPB 17.10.080, however, it is in the public's interest to address the issue of lease renewals before the end of the original lease term and there is not adequate time to classify the land prior to adoption of the lease ordinance. The borough intends to work with the lessees regarding their renewals, appraisals, development plans, and term of their lease over the course of the upcoming year during which time the land may be classified. The exception does not injure the public because the proposed classification is "rural" which is consistent with the current uses on the land.

SECTION 5. This ordinance takes effect immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 19TH DAY OF JUNE, 2001.


Timothy Navarre, Assembly President

ATTEST:


Linda S. Murphy, Borough Clerk