

Introduced by:

Mayor

Date:

02/18/03

Hearing:

04/01/03

Action:

Enacted as Amended

Vote:

8 Yes, 0 No, 1 Absent

**KENAI PENINSULA BOROUGH
ORDINANCE 2003-06**

**AN ORDINANCE AUTHORIZING THE NEGOTIATED LEASE OF A 30-ACRE±
PARCEL LOCATED WITHIN THE BUFFER PROPERTY OF THE CENTRAL
PENINSULA LANDFILL TO JERRY K. HOLLAND D/B/A AARDVARK PUMPING**

WHEREAS, the Kenai Peninsula Borough (KPB) owns the subject land; and

WHEREAS, the subject land was classified Government with a Resource Management overlay by KPB Assembly Resolution 95-41 and is used as buffer for the central peninsula landfill; and

WHEREAS, Aardvark Pumping has submitted an application to lease the subject land for a septic waste disposal site; and

WHEREAS, the land is suitable for the proposed use as documented in Aardvark Pumping's application and will not interfere with other borough land uses or adjacent private property; and

WHEREAS, septic waste disposal affects the health and welfare of the community, and facilitating adequate supply of septic waste disposal sites is in the public best interest; and

WHEREAS, Aardvark Pumping's development plan, required environmental liability insurance, and ADEC permitting and monitoring will minimize environmental liability to the borough; and

WHEREAS, only one firm is providing septic waste disposal services at this time, and it is beneficial for the borough to have more than one supplier to help ensure availability of septic waste disposal services; and

WHEREAS, Aardvark Pumping will pay a market value rental rate for land that would otherwise not generate an income stream for the borough; and

WHEREAS, the KPB Planning Commission at its regularly scheduled meeting of March 10, 2003 recommended enactment by majority vote.

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

SECTION 1. That the Assembly finds that leasing the N½NE¼NE¼, SE¼NE¼NE¼, Section 14, T4N, R11W, S.M., Alaska to Aardvark Pumping, pursuant to KPB 17.10.100 (I) is in the best interest of the borough. The Assembly additionally makes an exception to KPB 17.10.110 (notice of a land sale). These exceptions are based on the following findings of facts pursuant to KPB 17.10.230:

1. Special circumstances or conditions exist.
 - A. Septic waste disposal affects the health and welfare of the community and facilitating adequate supply of septic waste disposal sites is in the public best interest.
 - B. Increasing the number of operators should benefit the borough as a whole by:
 1. Keeping prices at a level that will encourage owners to pump their systems more frequently.
 2. Increased pumping will decrease the number of absorption system failures.
 3. Insure a sufficient number of permitted sites.
 4. Help ensure the continued availability of septic waste disposal services
 - E. The proposed site is suitable for the proposed use, and other private sites are not available.
 - F. 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 sole source lease to Aardvark Pumping will not serve a useful purpose.
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.
 - A. The lease will not preserve a property right; however, it will keep an important business operating on the peninsula.
 - B. A septic waste disposal site is difficult to lease in a competitive manner.

3. That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the area.
 - A. Lease of the subject land to Aardvark Pumping will benefit the public by adding to the supply of septic waste disposal sites.
 - B. The land is suitable for the proposed use as documented in Aardvark Pumping's application and will not interfere with other borough land uses or adjacent private property.
 - C. Aardvark Pumping will need to comply with Alaska Department of Environmental Conservation permitting requirements.


SECTION 2. 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 Jerry K. Holland d/b/a Aardvark Pumping at a rental rate for the first year at the greater of \$6,000 or the appraised fair market rental, with a 3 percent increase each year over the previous year's rent as shown on the attached rent schedule, subject to the terms and conditions of this ordinance. The authorization is for lease solely to Aardvark Pumping and it may not assign any rights to negotiate or enter an agreement for lease to any other person or entity.

SECTION 3. That the assembly finds that if the annual fair market rental value as determined by a qualified appraiser is less than six thousand dollars (\$6000.00) an "other than fair market value" lease meets the criteria of KPB 17.10.120 (D) as set forth in the findings of fact in Section 1 of this ordinance. This offer for negotiated lease shall remain open for a period of 150 days after adoption of this ordinance.

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

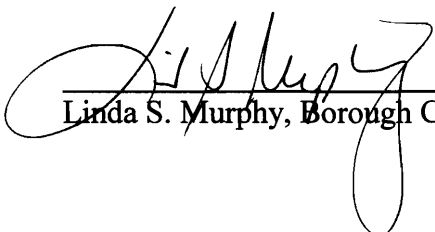
SECTION 5. That this ordinance shall take effect immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 1ST DAY OF APRIL, 2003.



Pete Sprague, Assembly President

ATTEST:



Linda S. Murphy, Borough Clerk

