

Introduced by: Mayor
Date: 04/01/08
Hearing: 05/06/08
Action: Enacted as Amended
Vote: 7 Yes, 0 No, 2 Absent

**KENAI PENINSULA BOROUGH
ORDINANCE 2008-09**

**AN ORDINANCE AUTHORIZING A NEGOTIATED LEASE AT LESS THAN
FAIR MARKET VALUE WITH KACHEMAK NORDIC SKI CLUB, INC. OF
APPROXIMATELY 90 ACRES OF BOROUGH LAND IN THE HOMER AREA FOR
THE DEVELOPMENT, MANAGEMENT, AND MAINTENANCE OF THE
LOOKOUT MOUNTAIN TRAIL SYSTEM**

WHEREAS, Kachemak Nordic Ski Club, Inc., a nonprofit corporation established in 1990 currently maintains over 35 kilometers of groomed ski trails in and around the Homer area, and has over 250 active members; and

WHEREAS, in 2007 the Kachemak Nordic Ski Club, Inc. entered into a memorandum of agreement with the borough and was issued a land use permit for the maintenance and operation of existing ski trails on the subject land; and

WHEREAS, Kachemak Nordic Ski Club, Inc submitted an application to enter into a long-term lease of the subject land for the development of the Lookout Mountain Trail System to include hiking trails and a cross-country ski course that will facilitate competition for areawide schools, support statewide races, and provide recreational hiking and skiing opportunities for the general public; and

WHEREAS, Kachemak Nordic Ski Club, Inc. would be promoting a valuable community activity and constructing improvements in the form of a trail system, in exchange for a less than fair market value lease of Borough land; and

WHEREAS, a cross-country ski course facilitating competitions is expected to promote the economy by attracting participants and spectators; and

WHEREAS, the KPB Planning Commission at its regularly scheduled meeting of April 14, 2008 recommended enactment by unanimous consent.

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

SECTION 1. Pursuant to KPB 17.10.100 (I) and 17.10.120 (D), the Assembly finds that leasing approximately 90 acres of borough land more particularly described in Section 2 below at less than fair market value to the Kachemak Nordic Ski Club, Inc. for the development, management, and maintenance of the Lookout Mountain Trail System is in the best interest of the borough based on the following findings of fact:

- A. The Kachemak Nordic Ski Club, Inc. will facilitate ski competitions for areawide schools and recreational skiing for the general public.
- B. The Kachemak Nordic Ski Club, Inc. will employ productive use of borough land and construct valuable improvements on that land.
- C. The Lookout Mountain Trail System will be an asset to the local community for promoting tourism and recreational opportunities.
- D. The Lookout Mountain Trail System will not negatively impact the long-term future use of the land.

SECTION 2. Subject land is more particularly described as follows:

T5S, R13W, Section 27 S.M., Alaska, S½ SW¼SE¼, lying south of Ohlson Mountain Road, containing approximately 9.70 acres. (Portion of Parcel No. 171-131-31)

T5S, R13W, Section 34 S.M., Alaska, NW¼NE¼, containing approximately 40.00 acres. (Parcel No. 171-131-18)

T5S, R13W, Section 34 S.M., Alaska, SW¼NE¼, containing approximately 40.00 acres. (Parcel No. 171-131-21)

SECTION 3. That the Assembly additionally makes an exception to KPB 17.10.110 requiring notice of a disposition of land. 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 advertising, pursuant to KPB 17.10.110, is to notify the public of an opportunity to purchase or lease KPB land. However, because the authorization of this ordinance is for a sole source lease, advertising 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. Making an exception to advertising, pursuant to KPB 17.10.110, will not affect any substantial property right as this is public land already subject to the use (skiing) through permit for which the lease is being executed.
- 3. That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the area.

- A. Making an exception to advertising, pursuant to KPB 17.10.110, will not be detrimental or injurious to any public or private parties as leasing subject land is suitable for the development of a trail system and is compatible with the surrounding land use.

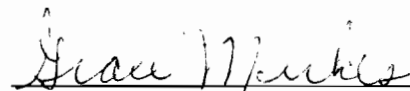
SECTION 4. Based on the foregoing, the mayor is hereby authorized, pursuant to KPB 17.10.100 (I) and 17.10.120 (D) to lease the land described in Section 2 above to the Kachemak Nordic Ski Club, Inc. for a term of 10 years at \$1/year. The authorization is for lease solely to the Kachemak Nordic Ski Club, Inc. and it may not assign any rights to negotiate or enter an agreement for lease with any other person or entity without obtaining prior approval in accordance with the lease.

SECTION 5. That the mayor is authorized to execute a lease substantially similar to the one attached, and sign any documents necessary to effectuate this ordinance.

SECTION 6. That the Kachemak Nordic Ski Club, Inc. shall have 180 days to execute the lease document from the date of enactment of this ordinance.

SECTION 7. That this ordinance shall take effect immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 6TH DAY OF MAY, 2008.



Grace Merkes, Assembly President

ATTEST:



Sherry Biggs, Borough Clerk



Yes: Gilman, Knopp, Long, Martin, Smith, Sprague, Merkes

No: None

Absent: Fischer, Superman