



KENAI PENINSULA BOROUGH

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DAVID R. CAREY
BOROUGH MAYOR

MEMORANDUM

TO: Gary Knopp, Assembly President
Kenai Peninsula Borough Assembly Members

THRU: David R. Carey, Mayor *DR Carey*
WB Max Best, Planning Director *WB*

FROM: *WB* Marcus A. Mueller, Land Management Officer
for m.

DATE: December 20, 2010

SUBJECT: Proposed Amendment to Ordinance 2010-36 Substitute (Mayor) Authorizing the Negotiated Lease at Less Than Fair Market Value of Certain Real Property to the Kenai Peninsula Racing Lions

Ordinance 2010-36 Substitute (Mayor) amended the originally proposed sale to a lease. A number of places in the ordinance still refer to "sale" and should be updated to say "lease." Additionally, there are a number of blanks left to fill in. Therefore the following amendments are respectfully requested:

➤ **Amend the 5th Whereas as follows:**

WHEREAS, the Kenai Peninsula Racing Lions have submitted an application for negotiated sale or lease at less than fair market value of [THE] approximately 157 acres [DESCRIBED IN SECTION 1 OF THIS ORDINANCE]; and

➤ **Amend the first paragraph of Section 1 by filling in the blanks as follows:**

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:

➤ **Amend Section 2, subsection 2.A as follows:**

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. 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 [SALE] 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.

➤ **Amend Section 3 as follows:**

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 [SALE] 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 sale unless inconsistent with this ordinance.

➤ **Amend Section 5 as follows:**

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