

Introduced
Date: 9/17/96
Action: Tabled
Vote: Unanimous

**KENAI PENINSULA BOROUGH
RESOLUTION 96-077**

**A RESOLUTION AUTHORIZING THE ADMINISTRATION TO
OBTAIN THE ASSISTANCE OF LAW ENFORCEMENT AGENCIES
FOR EJECTMENT OF CERTAIN MINING CLAIMANTS
FROM BOROUGH PROPERTY IN COOPER LANDING**

WHEREAS, by failing to adopt Resolution 95-46 the assembly directed the administration to pursue actions to eject certain mining claimants in Cooper Landing from using borough-selected land, to the extent their surface use is not authorized by the state for mining; and

WHEREAS, on June 18, 1996 the administration obtained an Order of Ejectment from the Superior Court in civil cases numbered 3KN-95-759, 3KN-95-761, 3KN-95-762 and 3KN-95-763, ordering Clyde and Robert Holbrook, Faye Nicely, Edward and Kathleen Martin, Denise Taylor and Thomas Warhus, the remaining mining claimants, to vacate their structures on certain borough property and to remove from borough property all of their structures and other personal property not authorized by the state for mining; and

WHEREAS, on July 19, 1996 the Supreme Court entered an order temporarily staying the Superior Court's Order of Ejectment, pending their decision on the claimants' petition for review; and

WHEREAS, on August 23, 1996 the Supreme Court denied the claimants' petition for review of the Superior Court's Order of Ejectment and vacated the stay of the Order of Ejectment; and

WHEREAS, the administration has demanded that by September 10, 1996 the claimants vacate the premises and remove their structures and personal property not authorized by the state for mining; and

WHEREAS, not all of the mining claimants have fully complied with the Order of Ejectment; and

WHEREAS, the assistance of state troopers and other law enforcement personnel may be necessary to enforce the Order of Ejectment;

NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE KENAI

PENINSULA BOROUGH:

SECTION 1. That the mayor is authorized to immediately obtain the assistance of law enforcement personnel, through a writ of assistance or other lawful means, and to use physical force as may be lawful, prudent and necessary, to enforce the Order of Ejectment entered by the Superior Court in Kenai on June 18, 1996, in civil cases numbered 3KN-95-759, 3KN-95-761, 3KN-95-762 and 3KN-95-763, a copy of which order is attached hereto as Attachment "A" and incorporated herein by reference.

SECTION 2. That the mayor is authorized to immediately cause the removal, from the property described in the Order of Ejectment, all structures and personal property which remains on the property in violation of the Order of Ejectment, to store any such property reasonably determined to have marketable value for a reasonable time period not less than 15 days, giving the owners notice and an opportunity to recover the property after payment of all costs associated with removal, storage and disposition of the property, and to sell at public auction, with public notice and in a lawful manner, any items not redeemed. The mayor may either dispose of any property determined not to have marketable value, or store it and include it in such sale. Any property not sold may be deemed worthless and disposed of accordingly. After deducting all costs associated with removing, storing and disposing of such property, any excess proceeds from the sale shall be returned to the owner in the manner provided by law.

SECTION 3. That the mayor is authorized to grant the mining claimants additional time for removing structures and personal property, and to otherwise settle these cases, as may be agreed upon in writing and determined by the mayor to be in the best interests of the borough.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS _____ DAY OF _____, 1996.

Andrew P. Scalzi, Assembly President

ATTEST:

Gaye J. Vaughan, Borough Clerk