

Introduced by: Mayor  
Date: 10/13/20  
Hearing: 11/10/20  
Action: Enacted as Amended  
Vote: 9 Yes, 0 No, 0 Absent

**KENAI PENINSULA BOROUGH  
ORDINANCE 2020-44**

**AN ORDINANCE AUTHORIZING THE LEASE OF APPROXIMATELY 2,500  
SQUARE FEET OF BOROUGH OWNED LAND TO ATLAS TOWER 1, LLC FOR THE  
CONSTRUCTION AND MAINTENANCE OF A COMMUNICATION TOWER SITE**

**WHEREAS,** Atlas Tower 1, LLC, (“Atlas”) is seeking to expand cellular telephone service capacity in the North Kenai area; and

**WHEREAS,** Atlas has researched the North Kenai area to determine feasible sites for a new communication tower; and

**WHEREAS,** Atlas, has determined that a 2,500 square-foot site on land owned by the borough to the west of Bernice Lake is the most desirable site to meet its requirements; and

**WHEREAS,** the 2,500 square-foot site is located within the 2.95-acre KPB-owned parcel #014-050-01, legally described as SE1/4SE1/4SE1/4, Section 16, T. 7N., R. 12W., S.M., Kenai recording district, Third Judicial District, State of Alaska; and

**WHEREAS,** KPB-owned parcel #014-050-01 is classified “Light Industrial”; and

**WHEREAS,** Atlas, proposes a market value lease; and

**WHEREAS,** leasing of this land furthers the Kenai Peninsula Borough Comprehensive Plan Goal 2, Focus Area: Land Use and Changing Environment, Objectives F; and

**WHEREAS,** the Kenai Peninsula Borough Planning Commission at its regularly scheduled meeting of October 12, 2020, recommended approval by unanimous consent.

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

**SECTION 1.** That the assembly finds that leasing this land to Atlas for the construction and maintenance of a communication tower site is in the best interest of the public and the borough. This finding is based on the following facts:

- a. The borough will receive a market value rent for the term of the lease.

- b. The land will be used to provide a new cellular tower site that will benefit communication network users including public safety providers.

**SECTION 2.** The mayor is authorized, pursuant to KPB 17.10.100(I) to negotiate and enter into a lease of the above-described parcel to Atlas, subject to all lease conditions required by this ordinance and the applicable provisions of KPB 17.10.

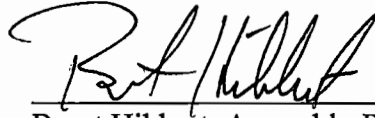
**SECTION 3.** Pursuant to KPB 17.10.230, the assembly authorizes an exception to the requirements of KPB 17.10.110, based on the following facts:

- 1. That special circumstances or conditions exist.
  - a. The proposed lease is solely with Atlas, for the purpose of constructing a new cellular tower site.
  - b. The notice requirement is intended to make the public aware of an opportunity to purchase borough property, which is unnecessary since the intent of the disposal is to lease the property solely to Atlas.
- 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 notice requirement is intended to make the public aware of an opportunity to purchase borough property, which is unnecessary since the intent of the disposal is to lease the property solely to Atlas.
- 3. That the granting of this exception will not be detrimental to the public welfare or injurious to other property in the area.
  - a. Lease of the subject parcel to Atlas for a cellular tower site is compatible with the current "Light Industrial" classification.

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

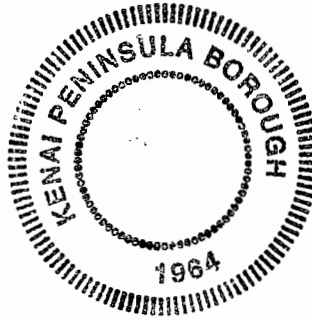
**SECTION 5.** This ordinance shall become effective immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 10TH DAY OF NOVEMBER, 2020.



Brent Hibbert, Assembly President

ATTEST:

  
John Blankenship, MMC, Borough Clerk

Yes: Bjorkman, Carpenter, Chesley, Cox, Derkevorkian, Dunne, Elam, Johnson, Hibbert  
No: None  
Absent: None