

MATANUSKA-SUSITNA BOROUGH AGRICULTURE ADVISORY BOARD

Chairman – Jon Olsen (10)	Mark Stahl (03)	Stephen Brown (08)
Vice Chair – Cody Beus (04)	VACANT (05)	Benjamin Swimm (09)
VACANT (01)	Steven Sawyer (06)	Erik “Moe” Johnson (11)
Dick Zobel (02)	VACANT (07)	VACANT (12)

AGENDA

REGULAR MEETING LOWER LEVEL CONFERENCE ROOM

**September 15, 2021
4:30 P.M.**

- I. CALL TO ORDER; ROLL CALL
- II. APPROVAL OF AGENDA; PLEDGE OF ALLEGIANCE
- III. AUDIENCE PARTICIPATION (Limit 3 minutes)
- IV. APPROVAL OF MINUTES
 - A. March 17, 2021
- V. ITEMS OF BUSINESS
 - A. Former Title 13 Policy and Procedures
 - B. Farm Development Plan Release
- VI. MEMBER COMMENTS (Limit to 3 minutes)
- VII. NEXT MEETING
 - TBD
- VIII. ADJOURNMENT

1 **MATANUSKA-SUSITNA BOROUGH**
2 **AGRICULTURE ADVISORY BOARD**
3

Chairman –	Mark Stahl (03)	VACANT (07)	VACANT (12)
Vice Chair – Jon Olsen (10)	Cody Beus (04)	Stephen Brown (08)	
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4
5
6 **DRAFT MINUTES**
7

8 **REGULAR MEETING**

March 17, 2021

9 **DSJ BUILDING**

4:30 P.M.

10 **LOWER LEVEL CONFERENCE ROOM**
11

12 I. **CALL TO ORDER; ROLL CALL**

13 Mr. Olsen called the meeting to order at 4:30 p.m.

14 Members present and establishing a quorum were: Jon Olsen, Erik Johnson, Steven
15 Sawyer, Mark Stahl, Cody Beus, Benjamin Swimm

16 Members Absent and Excused: Stephen Brown

17 Members Absent: Dick Zobel

18 Staff present: Tracy McDaniel, Asset Manager

19 Jill Irsik, Dept. Admin Specialist
20

21 II. **ELECTION OF CHAIRMAN AND VICE-CHAIR**

22 MOTION: Mr. Olsen nominated Mr. Sawyer for Chairperson. Mr. Stahl 2nd. Mr.
23 Sawyer declined the nomination.

24 MOTION: Mr. Beus nominated Mr. Olsen for Chairperson. Mr. Sawyer 2nd. Mr. Olsen
25 accepted the nomination. No other members were nominated. All in favor.

26 MOTION: Mr. Olsen nominated Mr. Beus for Vice-Chairperson. Mr. Sawyer 2nd. Mr.
27 Beus accepted the nomination. No other members were nominated. All in favor.
28

29 III. **APPROVAL OF AGENDA; PLEDGE OF ALLEGIANCE**

30 MOTION: Mr. Olsen moved, Mr. Sawyer 2nd.

31 Remove item B from Items of Business. Make Item C, Item B. All in favor.

32 Agenda approved as amended.
33

34 IV. **AUDIENCE PARTICIPATION (Limit to 3 minutes)**

35 None
36

37 V. **APPROVAL OF MINUTES**

38 A. **October 21, 2020**

39 MOTION: Mr. Sawyer moved, Mr. Stahl 2nd. Minutes approved. On Line 34,
40 strike the 2nd Mr. All in favor. Minutes approved as amended.
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45 VI. ITEMS OF BUSINESS

46 A. Application to Amend Farm Conservation Plan (MSB00471)

47 Ms. McDaniel spoke to the request to amend the current farm conservation plan

48 MOTION: Mr. Johnson moved, Mr. Sawyer 2nd. All in favor.

49

50 B. Tracy McDaniel – Staff Report

51 • Ms. McDaniel gave the board an update on the board vacancies, there are currently
52 four vacancies on the Agriculture Advisory Board.

53 • Reminded board of the Open-Meetings Act and issuing public comment as a
54 member of the board procedure.

55 • Colaska public notice was sent to the Board, and staff will be requiring a plan from
56 Colaska before going forward to the board or Assembly with any action.

57 • Biosolids report – in October 2020, the board had asked for an update. Ms.
58 McDaniel talked with the Planning Department, and they said there was no activity
59 to report.
60

61 VII. MEMBER COMMENTS (limit to 3 minutes)

62 • Mr. Beus – Glad to be on the board, looking to learn, and will reach out to see if
63 he can get some more members to join to board.

64 • Mr. Sawyer – had a question regarding section line easements on Ag parcels,
65 which would reduce the Ag parcel in size below the 40 acres required. Ms.
66 McDaniel answered his question.

67 • Mr. Stahl – Had some concerns regarding easements on his property as well.
68 Stated that is was good to see everyone again.

69 • Mr. Olsen – welcomed the new members, appreciate them serving on the board

70 • Mr. Swimm- thanked the board for the welcome. Is glad to be able to catch up on
71 the issues, and is looking forward to participating in future meetings.
72

73 VIII. NEXT MEETING

74 A. TBD
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76 IX. ADJOURNMENT

77 Mr. Olsen adjourned the meeting at 5:23 p.m.
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83 ATTEST:

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87 _____
Jill Irsik

88 Department Administrative Specialist
89

Matanuska-Susitna Borough



MEMORANDUM

TO: Agriculture Advisory Board Members

THROUGH: Eric Phillips, Community Development Director

FROM: Tracy K. McDaniel, Asset Manager *TKM*

DATE: September 2, 2021 for the September 15, 2021 meeting

RE: Staff Report updated from the December 11, 2019 meeting
Draft Former Title 13 Policy and Procedure Manual

The following paper is updated from the December 11, 2019, meeting. Since there are new members on the board, I thought it would be worth revisiting the draft Policy and Procedure Manual for the former Title 13 agricultural rights properties.

I spent much of November (**2019**) reviewing files and researching past legislation for Borough agricultural sales. I was able to get through all of the 1977, 1981, and a start on the 1982 ag sale files. The time spent was extremely valuable. A draft policy and procedures was developed from past practice, legislation, covenants, conditions and restriction. These policies are to help staff and the board understand the unwritten, past practices on how to proceed with an owners request for various land disposition for a farm unit or sub-farm unit. It is not intended to further restrict an owner of agricultural rights only property.

The 1977 and 1981 agricultural sale programs are similar in as much as the conditions and restrictions are the same and recorded with the deed, not as a separate document. The conditions and restriction in both sales contained paragraph 4, regarding the alienation of property, which specifically states, "The agricultural interest, the sole interest herein conveyed, may not be sold, leased, or conveyed, in whole or in part, without first obtaining written approval from the Matanuska-Susitna Borough."

The one difference between these two sales is the Borough performed the 1977 sale for 13 farm units and the Alaska Department of Natural Resource performed the 1981 sale on behalf of the

Borough for 2 properties located in the Point MacKenzie Agricultural District, which years later became an issue with one of the parcels due to an Agricultural Revolving Loan Fund foreclosure.

The 1982 and 1983 agricultural sale programs are the same covenants, conditions, and restrictions and recorded as a separate document. These two programs were a lease with the option to purchase. The deeds nor the covenants, conditions, or restrictions require “written approval” from the borough to convey an owner’s interest as the 1977 and 1981 agricultural sales require. There were 20 parcels in the 1982 land sale with 5 leases terminated and 14 parcels in the 1983 land sale and 8 leases terminated. My goal is to continue review the 1982 and 1983 sale files to determine what sold, did not sell, and subsequent subdivisions of the farm units and homesites as time allows.

Three pieces of past legislation (attached) that affect the agricultural land sale programs were adopted by the Assembly to allow more flexibility in developing Borough agricultural lands and are as follows:

MSB Ordinance Serial No. 86-78

At the February 5, 1986, the Agricultural and Forestry Advisory Board meeting minutes document the board discussed a “request from the Assembly that the Ag and Forestry Advisory Board help review the Borough’s Ag program. The Assembly would like the Board to meet with Borough Ag Parcel owners in March to get their input on how to change and or improve the Ag program.” At the March 5, 1986, board meeting, 12 agricultural owners testified and gave recommendations to the board. On September 16, 1986, MSB Ordinance Serial No. 86-78 was adopted.

MSB Ordinance Serial No. 93-143

This ordinance modified Ordinance Serial No. 86-78, Section 5 of Exhibit A, to allow a onetime approval of the agricultural and forestry advisory board for an owner to “operate a business on the parcel processing or selling wood or agricultural products that come from areas other than the parcel. The business may not be on Class II or III soils unless located on the homesite.”

MSB Ordinance Serial No. 95-151

This ordinance is specific to a landowner’s request to be relieved from the requirements to have an approved current farm use plan on file with the Borough and adopted by the Assembly on December 5, 1995. Also attached with the ordinance is the action memorandum and the minutes from the May 3, 1995, Agricultural and Forestry Advisory Board meeting. The board recommended to the Assembly that when a landowner has completed their farm plan and paid its financial obligation, they would not be required to file a farm plan with the Borough. I discovered **draft** legislation (attached as “Draft Ag Release Legislation”) that references the

release of the farm plan. I think the information in the draft document is worthy of a discussion on how this board foresees the management of farm development plans that are 35-40 years old.

Respectfully, Tracy McDaniel

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1.1 Authority: 23.10.090 (former MSB 13.30.020 & 13.30.045)
MSB Serial Ordinance No. 86-78 and No. 93-143 (*consider repealing and replacing with an updated ordinance*) and recorded covenants, conditions, and restriction, as corrected or amended.

2.1 This section applies to borough lands classified and sold as “agricultural lands” under former MSB Title 13 as Agricultural Rights interest and the development rights retained by the Borough, as to controlling “the rights to subdivide or use the surface of the land for residential, commercial, or industrial uses which are not a part of the farming enterprise conducted on the land.”

The purpose of these procedures is to outline the various documents and establish policies that affect the agricultural rights interest of a farm unit or sub-farm unit development rights the borough retained, and to streamline the process for the applicant.

3.1 These procedures will be followed in general when preparing an application for the following:

Sub-part 6.1: Conveyance of the farm unit or sub-farm unit for the 1977 and 1981 Agricultural Land Sale programs.

Sub-part 7.1: Subdivision and sale of the fee simple title of the five-acre homesite.

Sub-part 8.1: Subdivision of the farm or sub-farm unit.

Sub-part 9.1: Non-agricultural businesses.

Sub-part 10.1: Homesites and outbuildings.

Sub-part 11.1: Leasing a farm unit or sub-farm unit.

Sub-part 12.1: Granting or dedicating easements.

Sub-part 13.1: Farm Development Plan, schedule, and extensions.

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Sub-part 14.1: Conveyance and subdivision by probate, trust, or civil actions.

4.1 An applicant must be deemed a qualified applicant pursuant to MSB 23.10.090.

5.1 Application submittal and review.

A. The steps outlined under “Applications: Filing & Acceptance” Part 10 of the Land and Resource Management Division Policy and Procedure Manual shall be followed.

B. Staff will create or update a case file that contains the application and any pertinent enclosures or inclusions.

C. Staff will provide a comprehensive review of the property status and check the land for any current uses, reservation, or prohibited uses to determine if the area is subject to any existing restrictions or area plans.

D. The nature of the proposed request shall be considered for the uses consistent with any restrictions the borough retained in the conveyance document, under former MSB Title 13, MSB Assembly adopted legislation, and the conditions, covenants, and restrictions contained therein.

E. Financial and/or Interdepartmental review is initiated.

6.1 Conveyance of the farm unit or sub-farm unit for the 1977 and 1981 Agricultural Land Sale programs.

A. The application submitted to the MSB shall be signed by both parties (grantor(s) and grantee(s)) prior to the conveyance of ownership pursuant to the authority retained by the borough under the Conditions and Restrictions, Section 4, Alienation of Property.

B. Staff will conduct a financial review of both parties to ensure the parties named in the transaction are qualified applicants in accordance with MSB 23.10.090.

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- C. The applicant is required to pay for and provide staff with a preliminary commitment for owner’s title to determine the status of title specific to the sale and conveyance of the farm unit or sub-farm unit, naming both parties as the grantor(s) and grantee(s).
 - D. After review of the original sale file and other documentation applicable to the farm unit or sub-farm unit, staff will prepare a Manager’s Decision with a Notice of Approval to Further Convey the Farm Unit and a recommendation for the borough manager’s consideration.
 - E. Upon the borough manager’s approval of the request, staff will prepare the necessary documents and send to the title company with instruction to record the Notice of Approval to Further Convey the Farm Unit with the deed.
 - F. All required fees for the conveyance of the farm unit or sub-farm unit shall be paid by the applicants.
- 7.1 Subdivision and sale of the fee simple title for a five-acre homesite – 1977, 1981, 1982 and 1983 Agricultural Land Sale Program.
- A. Submit an application, fee, and proposed site plan with soils information.
 - 1. Staff will initiate qualifying the applicant(s) through a Financial Review and Interdepartmental Review process.
 - 2. Upon completion of qualifying the applicant(s), staff will prepare the 30-day public notice for mailing and advertising.
- 7.2 The applicant is required to pay for and provide Land and Resource Management Division a preliminary commitment for owner’s title insurance to determine status of title.
- 7.3 The land classification of the homesite must be changed from “agricultural” to “residential” or “general purpose” land in order to convey the development rights the Borough retained under a former MSB Title 13 agricultural land classification programs for the subdivided homesite. Any covenants, conditions, and restrictions related to the original agricultural rights sale shall be terminated for the five-acre homesite.

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- A. Classification of the five-acre homesite requires the MSB Agriculture Advisory Board and Planning Commission’s review and consideration.
 - B. Staff will prepare legislation for adoption by the assembly that includes the Agriculture Advisory Board and Planning Commission’s recommendations and all public comments.
- 7.4 The homesite must meet borough platting regulations in effect at the time the additional rights are conveyed by the borough.
- A. The application and fee for MSB Platting Division is a separate process under MSB Title 43, as amended. It is recommended the applicant receive MSB Assembly approval prior to the MSB Platting Division’s process for subdivision approval.
- 7.5 The buyer must pay cash at closing for the purchase price established for the additional rights conveyed for the homesite.
- A. The purchase price for the additional rights conveyed for the homesite shall be based on a fee appraisal performed by a qualified fee appraiser under instructions established by the Borough. The date of the appraisal shall be based on the date the MSB Assembly approves by ordinance the homesite purchase request. Cost for the appraisal are borne by the applicant.
 - B. The purchase price of the homesite shall be the estimated fair market value of the fee simple estate (land only) minus the estimated fair market value of the agricultural rights (land only) indicated by the fee appraisal.
- 7.6 Upon notice from the MSB Platting Division for recording the subdivision plat, staff will prepare a quitclaim deed conveying its interest with no warranties for the five acre homesite, release the homesite from the recorded covenants, conditions, and restrictions, execute a Certificate of Ownership as required by the platting division, and provide the title company with the documents and instructions for recording the sale of the borough’s development rights.
- 7.7 All costs to process the request, including but not limited to, those costs for survey, platting, encroachment permits or variances, fee appraisal, public notice, advertising and

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mailing fees will be paid in advance by the applicant and all title report fees and transaction closing costs will be paid at closing by the applicant.

- 7.8 Should the owner decide not to complete the subdivision and purchase of the development rights, or within the allotted time allowed under MSB Title 43.15.016, as amended, has expired, the applicant may continue to occupy the property under the title of that particular agricultural sale program and the borough will continue to hold the development rights of the property.
- 7.9 Only the original farm unit’s homesite is eligible for fee simple purchase of five acres. Any future homesite shall remain in agricultural rights only status with no more than two acres allowed for the subdivision of each farm unit or sub-farm unit.
- 7.10 Designation of additional homesites requires review and recommendation of the MSB Agriculture Advisory Board for the borough manager’s approval.
- 8.1 Subdivision of the farm unit or sub-farm unit.
- A. Submit an application, fee, and proposed site plan with soils information.
1. Staff will initiate qualifying the applicant(s) through a Financial Review and Interdepartmental Review process.
2. Upon completion of qualifying the applicant(s), staff will prepare the 30-day public notice for mailing and advertising.
- 8.2 A farm unit may consist of more than one parcel of record. Any division or subdivision through the platting process of a farm unit requires MSB Agriculture Advisory Board review and consideration for the borough manager’s approval. Each parcel created must be 40 acres or more in size.
- 8.3 Platting may not be required if the applicant requests approval to divide a legal parcel of record (e.g., a Government Land Office lot or an aliquot part descriptive lot) from the original farm unit. Staff will review each application to determine if a subdivision under the MSB Title 43, as amended, is required.

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- 8.4 The application and fee with the MSB Platting Division is a separate process under MSB Title 43. It is recommended the applicant receive MSB Assembly approval prior to the MSB Platting Division’s process for subdivision approval.
- 8.5 The applicant is required to provide Land and Resource Management Division a Certificate to Plat to determine status of title by a title company. The Certificate to Plat will also be used for the platting requirements, if applicable.
- 8.6 The applicant will prepare a Farm Conservation Plan that identifies the new divided or subdivided parcels for the review and consideration of the MSB Agriculture Advisory for the borough manager’s approval. Staff will prepare a Manager’s Decision that includes recommendations, if any.
- 8.7 Upon notice from the MSB Platting Division for recording the subdivision plat, staff will prepare the Notice of Approval to Divide the Farm Unit, execute a Certificate of Ownership, and provide the MSB Platting Division with the documents and instructions for recording with the subdivision plat.
- 8.8 All costs to process the request, including but not limited to, those costs for Certificate to Plat, public notice, advertising and mailing fees, recording fees, survey, platting, encroachment permits or variances, will be paid by the applicant.
- 9.1 Non-agricultural businesses (agricultural rights only).

As currently written (Ord 93-143): With the approval of the Agricultural and Forestry Advisory Board, specific non-agricultural businesses may be conducted on the homesite only. The specific business shall be owned and operated by the immediate parcel owner. With the approval of the Agricultural and Forestry Advisory Board at a request by the owner, a person may operate a business on the homesite processing or selling wood or agricultural products that come from areas other than the parcel. The business may not be on Class III or IV soils unless located on the homesite. The Agricultural and Forestry Advisory Board may not approve a business under this section unless the parcel is in compliance with its approved development schedule or is in full production.

Recommend language: Non-agricultural businesses may be conducted on the homesite only. No formal procedure administratively or legislatively is required.

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Furthermore, I would like to recommend the board consider other types of agricultural uses for the farm units, such as agritourism and farm tours.

10.1 Homesites and outbuildings.

As currently written (Ord 86-78): A request to place more than one dwelling per homesite must be submitted in writing and be reviewed Agricultural and Forestry Advisory Board and approved by the borough manager prior to construction. The request must include justification showing that the additional dwelling or larger site relates to the operation of the farm. The same procedure must be followed for requests and approval to construct outbuildings (non-residential structures required for agricultural purposes) on land other than the homesite. The request must include financial or practical justification for not placing the structures on the homesite.

Recommended language:

10.1 Homesite dwelling(s) for agricultural rights only.

A request to place more than one dwelling on the homesite must be submitted in writing and reviewed by the Agriculture Advisory Board and approved by the borough manager prior to construction. The request must include justification showing that the additional dwelling or larger site relates to the operation of the farm unit or sub-farm unit.

10.2 Outbuilding(s) .

A request to place outbuildings outside of the homesite must be submitted in writing and reviewed by the Agriculture Advisory Board and approved by the borough manager prior to construction. The request must included justification showing that the outbuilding(s) relates to the operation of the farm unit or sub-farm unit.

11.1 Leasing a farm unit or sub-farm unit.

Leasing a farm unit or sub-farm unit is allowed only for agricultural purposes, use, and sales of products produced on the farm. No formal procedures administratively or legislatively is required.

12.1 Granting or dedicating easements.

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- A. Utility easements for services.
 - 1. A single line utility service to the farm unit or sub-farm unit is allowed without borough consent. The costs associated with installation of utility lines are the sole responsibility of the owner.
 - 2. A utility transmission/distribution line across a farm unit or sub-farm unit is not allowed without borough administrative review and approval. Dependent upon the utility provider’s request, assembly approval may be required.

- B. Eminent Domain, Condemnation.
 - 1. The Borough retained the development rights of each farm unit or sub-farm unit. Therefore, the Borough has a compensable property interest of the retained rights. Granting or dedicating a public right of way to an agency with Eminent Domain Authority requires MSB Assembly approval.

13.1 Farm Development Plan, Schedule, and Extensions.

After the December 11th meeting, the February 2020 packet was prepared the for discussion of assembly approval to terminate the requirement of a Farm Development Plan. The February meeting was cancelled due to the pandemic. This item is on the September 15th meeting agenda.

14.1 Conveyance and subdivision by probate, trust, or civil actions.

From time to time, Land and Resource Management receives legal court documents as a process to convey and/or subdivide a farm unit or sub-farm unit to satisfy probate or a civil action. Each request requires careful consideration to preserve the intention of the agricultural potential to all farms in the agricultural land sale programs.

1977 and 1981 Ag sale: Typically, MSB Assessment Division provides staff with a recorded deed when a Notice to Convey the Farm Unit is not recorded. When transfer of title is conveyed by probate or a trust, it is impossible to perform a financial review on the new owner once title has passed. Upon notice of title transfer, staff will send a letter to the

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new owner outlining the process to record a Notice of Approval to Further Convey the Farm Unit.

Partnerships and the splitting of assets are, at times decided in court. Those court decisions/settlements can play a significant role in the disposition of a farm unit or sub-farm unit according to MSB code, legislation, policies, and recorded covenants, conditions, and restriction.

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REVIEW PROCESS SUB-PART NUMBER AND TITLE	ASSEMBLY ACTION	AAB APPROVAL	MANAGER APPROVAL
6.1: Conveyance of the farm unit or sub-farm unit for the 1977 and 1981 Agricultural Land Sale programs.			X
7.1: Subdivision and sale of the fee simple title of the five-acre homesite.	X	X & Planning Commission for the land classification	
7.10 Designation of additional homesites after subdivision		X	X
8.1: Subdivision of the farm or sub-farm unit.		X	X
8.6: Farm Conservation Plan new parcels after subdivision		X	X
9.1: Non-agricultural businesses	N/A	N/A	N/A
10.1: Homesites and outbuildings		X	X
11.1: Leasing a farm unit or sub-farm unit	N/A	N/A	N/A
12.1: Granting or dedicating easements			
A.1. Single line utility	N/A	N/A	N/A
A.2. Utility transmission/distribution line			X Administrative Review/Assembly approval may be required
B.1. Right of way (public)	X	X	
13.1: Farm Development Plan, schedule, and extensions.			
14.1: Conveyance and subdivision by probate, trust, or civil actions.			

MSB

Ordinance Serial No. 86-78

AMENDED
NON-CODE ORDINANCE

MATANUSKA-SUSITNA BOROUGH
ORDINANCE SERIAL NO. 86-78

AN ORDINANCE OF THE ASSEMBLY OF THE MATANUSKA-SUSITNA BOROUGH AUTHORIZING THE BOROUGH MANAGER TO IMPLEMENT CHANGES IN THE BOROUGH'S AGRICULTURAL PROGRAM TO PERMIT DEFERRALS OF DEVELOPMENT AND PAYMENT SCHEDULES.

WHEREAS, the Matanuska-Susitna Borough Assembly has directed the Agricultural and Forestry Advisory Board and Borough Staff to recommend changes in the Borough's agricultural program; and

WHEREAS, input was solicited from agricultural parcel owners, concerned citizens, Agricultural and Forestry Advisory Board members and members of the three Soil and Conservation districts at various public meetings; and

WHEREAS, recommended program changes were developed, based on input from the public meetings, which will provide more flexibility in developing Borough agricultural lands; and

WHEREAS, the program changes recommended by the Agricultural and Forestry Advisory Board will encourage the development of agricultural lands in a reasonable manner.

BE IT ENACTED:

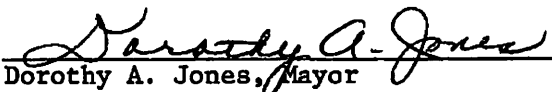
1. Classification. This is a non-code ordinance.

2. Adoption and Authorization to Implement Changes in the Agricultural Program. The Manager is authorized to implement the changes to the Agricultural program of the Borough as set out in Exhibit "A" by executing necessary amendments to agricultural rights leases executed in 1982 and 1983 and to the notes, restrictions, contracts and other documents related to the sale of agricultural rights in 1977 and 1981. Upon the execution of such an amendment, the terms and conditions of the amendment supercede any provision of the Code of Ordinances of the Matanuska-Susitna Borough with which it conflicts. Only those parts of the Code that are in irreconcilable conflict with an approved policy as implemented in an amendment are superceded and only to the extent of the conflict.


3. Effective date. This ordinance becomes effective upon its adoption.

Introduction: 9/2/86
First Reading: 8/19/86
Public Hearing: 9/16/86

ADOPTED AND APPROVED by the Assembly of the Matanuska-Susitna Borough
this 16th day of September, 1986.


Dorothy A. Jones, Mayor

ATTEST:


Chris Seagraves, Borough Clerk

(SEAL)

Ord 86-78

EXHIBIT "A"

POLICIES FOR AGRICULTURAL RIGHTS PURCHASES
AND LEASES MADE IN 1977, 1981, 1982 and 1983.

The policies set out in this exhibit apply only to agricultural right purchases from the Borough made in 1977 and 1981 and to agricultural rights leases from the Borough made in 1982 and 1983.

Definitions

"Bid Price" is the amount a lessee bid for the right to buy agricultural rights to an agricultural parcel leased under the 1982 or 1983 Borough agricultural lease program.

"Net Purchase Price" is the purchase price less applicable production and development credits.

"Parcel" is the area leased under an agricultural rights lease or the area upon which agricultural rights were purchased under an agricultural rights sale.

"Purchase Price" is the price for which a leased agricultural parcel may be purchased if the development requirements are met. It is the bid price less the forgiveness allowed for meeting the development schedule, but not less production or development credits.

The purchase price for 1977 sales is the amount bid; for 1981 sales it is the purchase price established for the lottery.

"Schedules" includes both the development schedule and the lease or note payment schedule. Schedule refers to the time by which development requirements are to be met or payments are to be made.

1. Deferments

Up to three deferments of one year each may be taken at any time during the lease or contract period. Each deferment extends both payment and development schedules. The first deferment may be taken at the parcel holder's option after review by the Agriculture and Forestry Advisory Board. To qualify for the second deferment, the parcel holder must show a good faith effort to comply with the schedules, show how unforeseen financial or practical circumstances prevented compliance, and have a written plan to bring the schedules current. To qualify for the third deferment, the parcel holder must also show progress since the second deferment or substantiation of extenuating circumstances.

No more than three deferments may be granted under this policy for any given parcel; changes in ownership do not change the total number of deferments to which a parcel is entitled.

Interest on the balance due on notes accrues during deferments and will be added to the principal owing by spreading such interest over the term of the extended payment period; subsequent note payments will be increased accordingly.

The deferments authorized under this section are in lieu of all other deferments authorized as a part of a sale or lease or under the terms of an ordinance. The property of a purchaser or lessee who enters into an amendment implementing the policies set out in this exhibit is entitled to three deferments under this section without regard to whether such property, purchaser or lessee has received a deferment of any nature in the past.

Deferments may be applied to the delinquencies that exist at the time this policy is implemented.

2. Extension of Purchase Options

A lessee qualifies for a 50% forgiveness of the bid price if all development requirements are met by the end of the sixth year or at the end of an approved deferment period during the seventh, eighth or ninth year. A lessee who does not exercise a purchase option at the end of the sixth year or an approved deferment period may purchase the agricultural rights at the bid price at any time up to the end of the twelfth year if the development requirements have been met at the time the option is exercised.

3. Termination or Foreclosure

Failure to pay a scheduled or deferred lease payment within 90 days of its due date shall result in the immediate termination of the lease. The Borough shall institute foreclosure proceedings on deeds of trust for failure to pay a scheduled or deferred payment within 90 days of its due date. The 90 day period begins to run on the effective date of this ordinance for all payments that are delinquent on that date.

4. Price Adjustments for Incorrect Tillable Acreage Estimates

The original bid price may be adjusted upon request if the actual Class II and III soils (based on the SCS system in effect at the time of the sale) on the parcel deviate more than 15% from that represented in the sale brochure. The new price for those acres determined not to be either Class II or III soils shall be the minimum bid per acre price of that parcel. The original bid price, purchase price, and

subsequent payments shall be adjusted accordingly. Overpayments of lease and note payments made prior to the price adjustment under this section will be credited without interest against future lease or note payments.

5. Non-Agricultural and Non-Parcel Holder Businesses

With the annual approval of the Agricultural and Forestry Advisory Board, non-agricultural businesses may be conducted on the homesite only. The business shall be owned and operated by the immediate parcel owner or lessee of record.

With the annual approval of the Agricultural and Forestry Advisory Board of a request by the lessee or owner, a person may operate a business on the parcel processing or selling wood or agricultural products that come from areas other than the parcel. The business may not be on Class II or III soils unless located on the homesite.

The Agricultural and Forestry Advisory Board may not approve a business under this section nor a renewal of a previously approved business unless the parcel is in compliance with its approved development schedule or is in full production.

6. Subdivisions

Agricultural parcels may not be subdivided in a manner that requires additional homesites without prior approval of the Agricultural and Forestry Advisory Board. Only the parent parcel's original homesite is eligible for fee simple purchase; all other homesites shall remain in agricultural rights only status.

7. Homesites and Outbuildings

A request to place more than one dwelling per homesite must be submitted in writing and be reviewed by the Agricultural and Forestry Advisory Board and approved by the Borough Manager prior to construction. The request must include justification showing that the additional dwelling relates to the operation of the farm. The same procedure must be followed for requests and approvals to construct outbuildings (non-residential structures required for agricultural purposes) on land other than the homesite. The request must include financial or practical justification for not placing the structures on the homesite.

MATANUSKA-SUSITNA BOROUGH
AGRICULTURE AND FORESTRY ADVISORY BOARD

REGULAR MEETING

FEBRUARY 5, 1986

The Matanuska-Susitna Borough Agricultural and Forestry Advisory Board held its regular meeting February 5, 1986, at 6:30 P.M. The meeting was called to order by Chairman Tracy Moffitt. Members present were Dick Zobel, Clarence Furbush, Bob Thom, DeLon Brown, Tracy Moffitt, and Pete Probasco.

Also present was Zane Cornett, Borough Forester.

The Board discussed the subject of the Horten homesite. Anne Horten requested information on why the two acre homesite recommended by the Board in December had not gone to the Assembly for approval. Zane Cornett advised her that it would be before the Assembly at the March 4, 1986 meeting.

Zane Cornett discussed a request from the Assembly that the Ag and Forestry Advisory Board help review the Borough's Ag program. The Assembly would like the Board to meet with Borough Ag Parcel owners in March to get their input on how to change and or improve the Ag program.

The Assembly would like the recommendations by April 15, 1986. They would also like the Boards recommendation on Wood Processing sites.

George Thomas spoke to the Board regarding his request for a Wood Processing site. No action was taken.

The Board discussed the proposed Susitna State Forest. Clarence Furbush and Greg Bell volunteered to write a letter to the Assembly outlining why the Board thinks the legislation proposing the Susitna State Forest should be delayed and reevaluated.

Being no further business the meeting adjourned.

Respectfully submitted,

Tracy Moffitt, Chairman
Agricultural & Forestry Advisory Board

MATANUSKA-SUSITNA BOROUGH
AGRICULTURAL AND FORESTRY ADVISORY BOARD

REGULAR MEETING

MARCH 5, 1986

The Matanuska-Susitna Borough Agricultural and Forestry Advisory Board held its regular meeting March 5, 1986, at 6:30 p.m. The meeting was called to order by Chairman Tracy Moffitt. Members present were Dick Zobel, Will Brown, Tracy Moffitt, Clarence Furbush, Pete Probasco, Delon Brown, and Greg Bell.

Also present were Bill Gissel, Land Management Officer, and Zane Cornett Borough Forester.

The main purpose of this meeting was to listen to Ag Parcel owners comments and recommendations for changes regarding the Borough's agricultural land sale program.

Following are a list of parcel owners that testified:

Michael McQuerry - 1982 sale	Marty Hoskins - 1977 sale
Laura Kolbeck	Ralph Kolbeck
Howard Horton - 1977 sale	Walt Kerca - 1983 sale
Dick Penwarden - 1982 sale	Art Peterson - 1983 sale
Wick Sunderland - 1982 sale	Candy Sunderland - 1982 sale
Jan McQuerry - 1982 sale	Dan Luxenberg - letter

Joe Moore, a soil scientist with the Soil Conservation Service (SCS) spoke to the Board and the parcel owners about SCS mapping and soil capabilities.

Following is a summary of recommendations and comments:

1. A longer clearing schedule and a longer payment plan. 3 people
2. Hold off all land payments to the Borough until the land is in production. 2 people
3. A production credit system. 3 people
4. Have the Borough Administration look at the States deferred payment plan. 1 person
5. Five acre homesite needs to be fee simple. 2 people
6. Platting requirements need to be changed, so the parcel owner does not need to survey his complete parcel to get the five (5) acre fee simple homesite out. 1 person
7. Lower the percentage of acreage needed to be cleared. 1 person
8. An investigation into the Borough Administration handling of commercial activities on parcels, see if their was any decrimination. 1 person
9. Parcels in Upper Susitna should be limited to 160 acres. 1 person

- 000076
10. Allow commercial uses on the five acre homesite. 1 person
 11. Clearing and payment extensions if the parcel owner shows intent to clear and live on the property. 1 person
 12. A five year grace period on payments. 1 person
 13. Make all the property fee simple with farm use covenants. 1 person
 14. Have the Borough make more inspections of the parcels to record progress. 1 person
 15. Tax deferrals on cattle, farm buildings, etc. 1 person
 16. Subsidized land clearing. 1 person
 17. Clearing requirement extended on a case by case basis. 1 person
 18. Let the parcel owner use non-farmable land for limited commercial uses. 1 person
 19. Splitting/selling of parcels down to 40 acres with a homesite on each parcel. 1 person
 20. Let farm buildings be built anywhere on the parcel to suit the best use of the owner. 1 person
 21. Before any future Ag Sales, have the Borough do an on-site inspection and a grid soil survey before a parcel is sold. 1 person
 22. Borough's basic program is OK. 1 person
 23. If a person has problems and cannot meet his/her clearing requirement, give them a six year extension and let them pay the full purchase price. 1 person
 24. The portion of the property being used commercially should be reappraised and taxes adjusted. 1 person
 25. Five acres fee simple, but find a way to keep it tied to the rest of the ag parcel. 1 person
 26. Homesites for children on non-farmable portion of ag parcel. 1 person
 27. Increase the clearing schedule from six years to between 10-15 years. 1 person
 28. Give owners more flexibility. 1 person

Dick Zobel moved that the Board invite a member from the Upper Susitna soil district to our April meeting to report on comments and recommendations made by parcel owners at their March meeting. Seconded by Pete Probasco. Motion passed.

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Pete Probasco moved that the Board cancel the March 6, 1986 meeting.
Seconded by Will Brown. Motion passed.

Will Brown moved that the Board ask the Assembly to extend the time for the
Board to report back to them on the Ag program review until May 20, 1986.
Seconded by Pete Probasco. Motioned passed.

Being no further business, the meeting adjourned.

Respectfully submitted,

Tracy Moffitt, Chairman

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MATANUSKA-SUSITNA BOROUGH
AGRICULTURAL AND FORESTRY ADVISORY BOARD

Addition to the minutes of March 5, 1986.

Summary of comments taken at the Palmer Soil and Water Conservation Board Meeting.

1. Some commercial uses should be available to the parcel owner.
2. Each parcel should have a total plan worked out on a case by case basis.
3. Keep original homesite five acres and let a one acre homesite be available every 40 acres on class IV or higher soils.
4. Option of a 12 year development schedule and 100% of purchase price if a parcel owner can't meet six year schedule.
5. The Borough should look into taking a 2nd position on the parcels to make it possible for banks to loan money on the parcels.
6. No straight across the board program. Different payment and development schedules.
7. Development credits.
8. Drop the percentage of acreage of land that needs to be cleared in the first six years.
9. Work out a procedure so that parcel owners know when to talk with the Board, Administration, or the Assembly.
10. Allow farm buildings anywhere on the Farm parcel.
11. Make the five acre homesite a total of five acres anywhere on the farm to keep the five acre integrity.

Respectfully submitted,

Tracy Moffitt, Chairman

MATANUSKA-SUSITNA BOROUGH
AGRICULTURE AND FORESTRY ADVISORY BOARD

REGULAR MEETING

MAY 7, 1986

The Agricultural and Forestry Advisory Board was called to order by chairman Tracy Moffitt. The following members were present: Dick Zobel, Clarence Furbush, Pete Probasco, Delon Brown, Greg Bell and Tracy Moffitt.

Bill Gissel spoke to the board concerning the ag program comments and recommendations. Much discussion followed.

Pete Probasco moved that the board recommend A-1, 2, 3, and 4 as options with the criteria recommended by Delon Brown on A-3. Seconded by Greg Bell.

Pete moved to amend A-1 to add three one year extensions on the development schedule, and that the second and third year deferrals and extensions must be reviewed and approved by the Board. Seconded by Greg Bell. The amendments and the original motion all passed.

Pete moved to recommend allowing non-ag business on the homesite only with annual approval from the Ag and Forestry Advisory Board, and limit the business to the immediate owner, subject to the farm being in development or production. Seconded by Dick Zobel. Motion passed.

Pete moved that any subdividing of ag parcels requiring additional homesite must have prior approval by the Board. Seconded by Greg Bell. Motion passed.

Pete moved that more than one residence per homesite or ag building, not on the five acre homesite, shall be reviewed by the Board and approved by the Assembly prior to construction. Seconded by Delon Brown. Motion passed.

Being no further business the meeting adjourned.

Respectfully submitted,

Tracy Moffitt, Chairman

MSB

Ordinance Serial No. 93-143

NON CODE ORDINANCE

Introduced by: Borough Manager

MATANUSKA-SUSITNA BOROUGH
ORDINANCE SERIAL NO. 93-143

AN ORDINANCE OF THE MATANUSKA-SUSITNA BOROUGH AMENDING NON-CODE ORDINANCE NO. 86-78, SECTION 5 AFFECTING THE BOROUGH'S AGRICULTURAL PROGRAM

WHEREAS, the Matanuska-Susitna Borough Agricultural and Forestry Advisory Board (AFAB) recommends that the assembly enact changes in the borough's agricultural program; and

WHEREAS, the requirement placed upon agricultural parcel owners in Ordinance No. 86-78, Exhibit "A" Section 5, to receive annual approval to conduct non-agricultural businesses on the agricultural homesite is an excessive restriction; and

WHEREAS, the requirement fails to provide agricultural parcel holders the ability to develop long term business investments and promote economic growth within the borough; and

WHEREAS, the requirement to receive annual approval confounds economic development and places unnecessary intrusion into the lives of agricultural parcel owners.

BE IT ENACTED:

Section 1. Classification. This ordinance is non-code ordinance.

Section 2. Amendment of ordinance. The manager is hereby authorized to implement a change to Non-Code Ordinance 86-78, Exhibit "A" Section 5 to read as follows:

With the approval of the agricultural and forestry advisory board, specific non-agricultural businesses may be conducted on the homesite only. The specific business shall be owned and operated by the immediate parcel owner or lessee of record.

With the approval of the agricultural and forestry advisory board of a request by the lessee or owner, a person may operate a business on the parcel processing or selling wood or agricultural products that come from areas other than the parcel. The business may not be on Class II or III soils unless located on the homesite.

The agricultural and forestry advisory board may not approve a business under this section unless the parcel is in compliance with its approved development schedule or is in full production.

Section 3. Effective date. Ordinance Serial No. 93-143 shall take effect upon adoption by the Matanuska-Susitna Borough Assembly.

INTRODUCTION: 12-7-93


PUBLIC HEARING: 12-14-93

ADOPTED by the Matanuska-Susitna Borough Assembly this 14 day of December

1993.

ATTEST:


LINDA A. DAHL, Borough Clerk


ERNEST W. BRANNON, Borough Mayor

(SEAL)

AM 93-367
OR 93-143

For Agenda of:

No. AM 93-367

SUBJECT: Request for Approval Of A Non-Agricultural Business By Ronald D. and Kathleen Fike

ATTACHMENTS: Fiscal Note: Yes _____ No X
Ordinance No. 93-143
Resolution No. 93-146

Route to:	Dept/Committee/Individual	Initials	Remarks
	Originator Ext.		
	Mayor		
5	Clerk		
4	Assistant to the Manager		
3	Attorney		
2	Finance Director	<u>DM</u>	
1	Planning Director	<u>JD</u>	
	Assessor		
	Public Works Director		

SUMMARY STATEMENT

The Fike's are requesting the borough's approval for a non-agricultural business on their five acre homesite for a period of 15 years.

DISCUSSION:

The Fike's own a forty (40) acre 1977 borough agricultural parcel. The parcel has 23 acres of tillable soils, is in compliance with the farm development plan and the borough has been paid in full. Ordinance 86-78 allows non-agricultural businesses to be conducted on agricultural homesites provided the business is owned and operated by the immediate parcel owner and annual approval is given by the Agricultural and Forestry Advisory Board (AFAB). It is the annual approval requirement that must be extended to enable the Fike's to obtain financing for their proposed non-agricultural business venture.

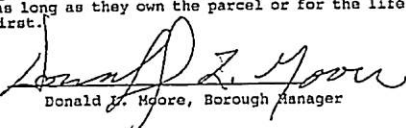
The applicant's twenty three (23) acres of tillable soils are not sufficient to provide them with a sole source of income. Similar to most other borough agricultural parcel owners, the need to supplement their income with alternative employment is a basic necessity.

Ordinance 86-78 attempted to provide farmers flexibility in alternative income sources and further contribute to the borough's economic development by allowing non-agricultural business, but it's main focus was to encourage agricultural development in a more reasonable manner. However, it failed to provide an atmosphere of security for non-agricultural long term investments by limiting approvals to an annual basis. (Discussion is continued on page 2.)

RECOMMENDED ACTION:

The Land Management Division recommends that the Assembly approve Options "A" which allows the Manager to implement changes to Ordinance 86-78 and grants the Fike's the approval necessary to operate a non-agricultural business on their homesite for as long as they own the parcel or for the life of the business which ever occurs first.

APPROVED BY:


Donald L. Moore, Borough Manager

AM 93-367

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Successful development of any business depends upon complex issues measured over long periods of time. While the Fike's have requested approval for 15 years, solely for the purpose of obtaining financing, it should be recognized that the life of the business may be longer or shorter than 15 years. Therefore, based upon a reasonable expectation of the proposed venture, approval should be extended for as long as the Fike's own the parcel or for the life of the business whichever comes first.

Agricultural and Forestry Advisory Board Comments:

The Agricultural and Forestry Advisory Board (AFAB) reviewed the applicants request and recommended that the assembly authorize the manager to enact changes to Non-Code Ordinance 86-78, Exhibit "A" Section 5 which will allow non-agricultural businesses to be conducted on MSB agricultural parcels in accordance with the attached ordinance changes; and approve the applicants operation of a non-agricultural business within the farms homsite for as long as the Fike's own the parcel or for the life of the business which ever occurs first.

OPTIONS:

- A. Approve an amendment to Ordinance 86-78, Exhibit "A" Section 5 which would change current requirement for farmers to seek annual approval in order to conduct non-agricultural businesses on the home-site/headquarters site of agricultural parcels to the requirement that they obtain approval, and that the approval will be for as long as the farmer owns the parcel or for the life of the specific business, whichever comes first.
- B. Deny the request to change Ordinance 86-78, Exhibit "A" Section 5.

STAFF RECOMMENDATIONS:

The Land Management Division recommends that the Assembly approve Option "A" which allows the Manager to implement changes to Ordinance 86-78 and grants the Fike's the approval necessary to operate a non-agricultural business on their homsite for as long as they own the parcel or for the life of the business which ever occurs first.

AM 93-367

001205

MATANUSKA-SUSITNA BOROUGH
AGRICULTURAL AND FORESTRY ADVISORY BOARD
RESOLUTION SERIAL NO. 93-14

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH AGRICULTURAL AND FORESTRY ADVISORY BOARD RECOMMENDING THAT THE BOROUGH ASSEMBLY AUTHORIZE THE MANAGER TO IMPLEMENT CHANGES TO NON-CODE ORDINANCE 86-78, SECTION 5

WHEREAS, the Matanuska-Susitna Borough Agricultural and Forestry Advisory Board (AFAB) recommends changes in the borough's agricultural program; and

WHEREAS, the Board finds that the requirement placed upon agricultural parcel owners in Ordinance 86-78, Exhibit "A" Section 5, to receive annual approval to conduct non-agricultural businesses on the agricultural homestead is an excessive restriction; and

WHEREAS, the requirement fails to provide agricultural parcel holders the ability to develop long term business investments and promote economic growth within the borough; and

WHEREAS, the requirement to receive annual approval confounds economic development and places unnecessary intrusion into the lives of agricultural parcel owners.

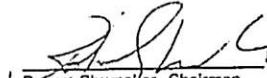
NOW THEREFORE, BE IT RESOLVED that the Matanuska-Susitna Borough Agricultural and Forestry Advisory Board recommends that the Borough Assembly authorize the Manager to implement a change to Non-Code Ordinance 86-78, Exhibit "A" Section 5 to amend section 5 to read as follows:

With the approval of the Agricultural and Forestry Advisory Board, non-agricultural businesses may be conducted on the homestead only. The business shall be owned and operated by the immediate parcel owner or lessee of record.

With the approval of the Agricultural and Forestry Advisory Board of a request by the lessee or owner, a person may operate a business on the parcel processing or selling wood or agricultural products that come from areas other than the parcel. The business may not be on Class II or III soils unless located on the homestead.

The Agricultural and Forestry Advisory Board may not approve a business under this section unless the parcel is in compliance with its approved development schedule or is in full production.

3 ADOPTED by the Matanuska-Susitna Borough Agricultural and Forestry Advisory Board this day of November, 1993.


Robert ShumaKer, Chairman

Am 93-367

001200

MSB

Ordinance Serial No. 95-151

NON CODE ORDINANCE

Introduced by: Donald Moore, Borough Manager

MATANUSKA-SUSITNA BOROUGH
ORDINANCE SERIAL NO. 95-151

AN ORDINANCE OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY RELEASING THE GRANTEEES OF AGRICULTURAL LAND CONVEYED IN QUITCLAIM DEED RECORDED AT BOOK 151, PAGE 784, TALKEETNA RECORDING DISTRICT, FROM THEIR FARM USE PLAN, TRAPPER CREEK - MSB001242

WHEREAS, the Matanuska-Susitna Borough has received a request from agricultural parcel owners who is asking to be relieved from the requirement to have an approved current farm use plan on file with the borough; and

WHEREAS, the borough conveyed the agricultural rights to the grantees subject to a deed requirement that the property shall be utilized in accordance with the farm use plan until such time as application is made to the assembly to be released from the farm use plan; and

WHEREAS, release from the farm use plan does not release the grantees from the covenants, conditions, and restrictions separately recorded, nor from the requirement that the property be for agricultural purposes; and

WHEREAS, the grantees of this farm have completed their farm use plan and paid all financial obligations due the borough for the farm; and

WHEREAS, the agricultural and forestry advisory board concurs unanimously that the farmers not be required to have an approved current farm use plan on file once development has been completed and all financial obligations to the borough have been met; and

WHEREAS, releasing the grantees from their farm use plan in no way diminishes the borough's intent to preserve lands with agricultural potential.

BE IT ENACTED:

Section 1. Classification. This ordinance is a non-code ordinance.

Section 2. The Matanuska-Susitna Borough Assembly allows the manager to release the farmers for MSB001242, their successors or assigns, from the requirement to have an approved farm

use plan for the lands described as those portions of the Northeast one-quarter (NE1/4), and the Northeast one-quarter of the Southeast one-quarter of the Northwest one-quarter (NE1/4SE1/4NW1/4), and the Northeast one-quarter of the Northwest one-quarter (NE1/4NW1/4), and the Northeast one-quarter of the Northwest one-quarter (NE1/4NW1/4NW1/4) lying easterly of and excluding both the Parks Highway right-of-way and those lands described as a scenic buffer being 150 feet in width, measured perpendicular to the outside margin of the existing Parks Highway right-of-way in the "Memorandum of Understanding Between Matanuska-Susitna Borough and the State of Alaska" recorded in the Talkeetna Recording District on October 25, 1979 in Book 72, Pages 224-226 of Section 9, Township 24 North, Range 5 West, Seward Meridian, Talkeetna Recording District, Third Judicial District, State of Alaska, in Quitclaim Deed dated January 11, 1995, recorded January 17, 1995, at Book 151, Page 784-786.

Section 3. Effective date. Ordinance Serial No. 95-151 shall take effect upon adoption by the Matanuska-Susitna Borough Assembly.

INTRODUCTION: 11/7/95

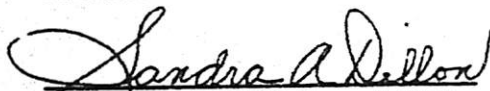
PUBLIC HEARING: 12/5/95

ADOPTED by the Matanuska-Susitna Borough Assembly this 5 day of December

1995.


BARBARA LACHER, Borough Mayor

ATTEST:


SANDRA A. DILLON, Borough Clerk

(SEAL)

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Approved with OR 95-151
12/5/95 *lad*

**BOROUGH ASSEMBLY DOCUMENT
CONTROL & AM/IM**

Matanuska-Susitna Borough
350 East Dahlia Avenue
Palmer, Alaska 99645-6488

For Agenda of: NOVEMBER 7, 1995

No. AM 95-328

SUBJECT: Release the Farmer on MSB001242 (Trapper Creek) From The Requirement To Have An Approved Farm Use Plan On File With The Borough.

ATTACHMENT(S): Fiscal Note: Yes No X
Ordinance No. 95-151
Agricultural & Forestry Advisory Minutes
Exhibit

Route to:	Dept/Committee/Individual	Ext.	Initials	Remarks
1	: Originator	8666	<i>PS</i>	<i>lad 10/22/95</i>
2	: Land Management Officer			
3	: Planning Director		<i>JD</i>	
4	: Finance Director		<i>KLM</i>	
5	: Attorney			
6	: Assistant to the Manager			
	: Mayor			

SUMMARY STATEMENT

The Land Management Division has received written request from a borough agricultural parcel owner who is asking to be relieved from the requirement that they have an approved current farm use plan on file with the borough. As stated in the deed, grantees may make application to the borough assembly to be released from their farm use plan.

DISCUSSION:

This request is from a farmer who has completed the farm development requirements, paid the borough in full for the farm, and received a deed to the farm. As stated in the deed, grantees may make application to the borough assembly to be released from their farm use plan. The borough preserved the requirement for agricultural use by adding language to the deed that states that releasing the farm use plan does not release the grantee from the covenants, conditions, and restrictions (cc&r's) separately recorded nor from the requirement that the use of the property be for agricultural purposes and for maximizing the agricultural potential of the property.

RECOMMENDED ACTION:

The manager recommends that ordinance 95-151 be introduced and set for public hearing. If adopted, the manager shall release the farmer from filing a current "Farm Use Plan."

APPROVED BY:

Donald L. Moore
DONALD L. MOORE, Borough Manager

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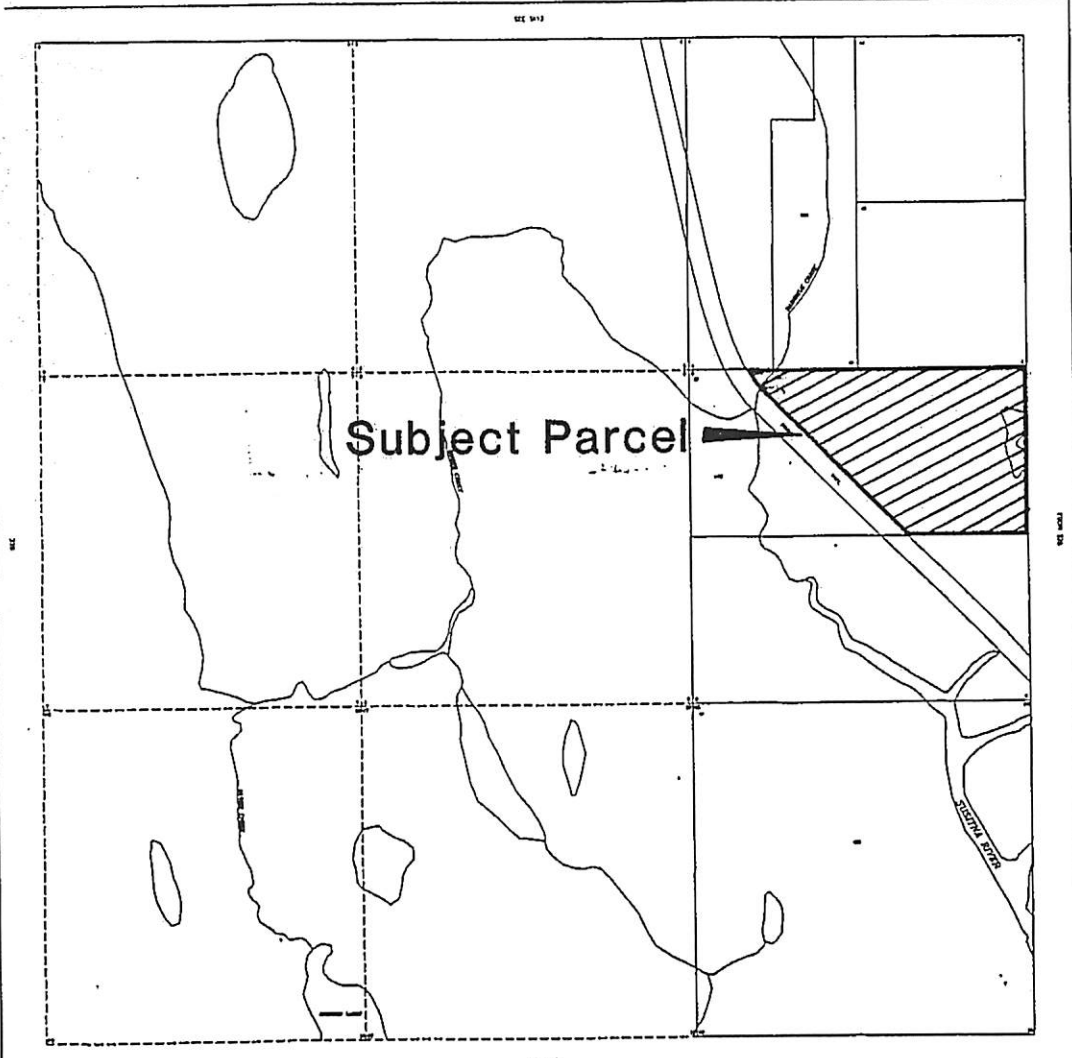
DISCUSSION (continued):

Granting a farmer release from the farm use plan once the farm is complete and the Borough has been paid in full does not diminish the borough's intent to preserve lands with agricultural potential from development. But the farmer benefits from the flexibility and latitude to deviate and explore other agricultural applications and techniques without having to first seek borough approval. Nine of the twenty-nine borough farms have deed language requiring that a farm plan be on file with the borough.

The agricultural and forestry advisory board concurred unanimously with staff's recommendation to not require agricultural parcel owners to have an approved current farm use plan on file with the borough once the farm plan has been completed and all financial obligations to the borough for the farm have been met.

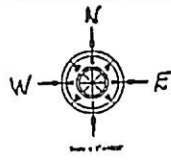
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TOWNSHIP 24 NORTH, RANGE 5¹ WEST, SECTION 9



Matanuska - Susitna
Borough

NOTICE
 This map is a reproduction of the original map on file in the office of the Borough Assessor. It is not to be used as a legal document. The Assessor is not responsible for any errors or omissions. The Assessor is not a lawyer and does not provide legal advice. The Assessor is not responsible for any taxes or fees. The Assessor is not responsible for any liens or encumbrances. The Assessor is not responsible for any other matters. The Assessor is not responsible for any other matters.



OFFICE OF
MONTANA

T. 24 N., R. 5 W., S. 9
 SEC. 9, T. 24 N., R. 5 W.

DATE: 1 APR. 5, 1988 M004

AM 95-328 DR 95-151

PRESENTED TO ASSEMBLY
5/16/95 *Dillon*

MATANUSKA-SUSITNA BOROUGH
AGRICULTURAL AND FORESTRY ADVISORY BOARD

MINUTES

REGULAR MEETING

MAY 3, 1995

The meeting was called to order at 7 p.m. in the first floor conference room of the Dorothy Swanda Jones Memorial Building by Chairman Wayne Bouwens.

Roll call of members to establish a quorum were: Wayne Bouwens, David Cruz, Bruce Bush, Art Petersen, Harold Olson, and Ken Dillard. Staff present was Ms. Jill Parson, land management officer. Chairman Bouwens appointed Mr. Bush as secretary of the month.

Approval of Agenda

Chairman Bouwens requested the following change to the agenda: Under new business, add MSB 1283 foreclosure, owned by Bill and Linda Burns. There was no objection to the addition.

Approval of Minutes

It was still noted that numerous meeting minutes are needed. (July 6, August 3, September 7, October 5, November 2, and December 7, 1994) It is believed by the board that the borough clerk's office has these somewhere. The minutes of April 5, 1995 were approved by board consensus.

Persons to be Heard

A. Ms. Kelline Ladere

Ms. Ladere briefed the board on her agricultural projects, MSB 1241, 1242, and 1284.

MSB 1242:

It was moved and seconded to recommend to the assembly that when a landholder of any agricultural parcel has completed the farm plan requirement, the financial obligation to the borough has been met and is given a quitclaim deed, etc., that they will not be required to file a farm plan with the borough. Voting on the motion, it passed unanimously.

MSB 1241:

It was moved and seconded to recommend to the assembly that no default action be taken on agricultural parcel MSB 1241 until the buffer zone issue is resolved, and recommended that all interest and penalties be stopped until issue resolution. Voting on the motion, it passed unanimously, by majority vote.

AGRICULTURAL AND FORESTRY ADVISORY BOARD MEETING MINUTES

CLK/KJ/MIN/AG

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May 3, 1995

FILE 95-328
DR 95-151

DRAFT AG RELEASE LEGISLATION FARM PLAN REQUIREMENTS

BACKGROUND:

The Land Management Division has received another written request from a borough agricultural rights owner who is asking to be relieved from the requirement that a current approved farm use plan be on file with the borough. The borough assembly has previously authorized release from the farm use plan filing requirements for several farms, which completed the farm development requirements and paid off the borough contract.

Release of the farm use plan filing requirement does not change the ownership interest from agricultural rights only. It also does not alter any other limitations under the covenants, conditions and restrictions or deed that were imposed to ensure the use of the property be for agricultural purposes.

On May 3, 1995, the Agricultural and Forestry Advisory Board (AFAB) passed a motion to "recommend to the assembly that when a landholder of any agricultural parcel has completed the farm plan requirement, the financial obligation to the borough has been met and is given a quitclaim deed, etc.," that the landholder "not be required to file a farm plan with the borough." The vote on the motion passed unanimously.

Subsequent to the recommendation of both the AFAB and administration, the assembly approved the release of three (3) parcels owned by two (2) individuals who had requested the releases. However, a change to the overall procedure was not presented based on the AFAB recommendation. In addition, the assembly released another owner from the requirements in the late 1980's.

DISCUSSION:

At this time of the 50 agricultural parcels sold in 1977, 1981, 1982 and 1983, 29 landholders have met the requirements of the farm plan development and paid the contracts off. Four (4) of the 29 have been previously released from the farm use plan filing requirement by individual request and action of the assembly.

Because the requirement was originally implemented by declaration of covenants or deed restrictions (depending on the year of the sale), when a release is authorized it must be implemented as a "release" of the clause in the specific document of record which contained the requirement. For this reason, it is necessary to

process releases and collect the recording fees on an individual basis. However, it would expedite the requests if processed administratively based on meeting all of the following requirements.

- * The borough agricultural parcel must have been sold in either the 1977, 1981, 1982, or 1983 programs.
- * The development under the approved farm use plan must have been completed as required by the sale program.
- * The borough contract to purchase the agricultural rights is paid in full.
- * All taxes and assessments for the agricultural parcel are current.

Matanuska-Susitna Borough



MEMORANDUM

TO: Agriculture Advisory Board Members

THROUGH: Eric Phillips, Community Development Director

FROM: Tracy K. McDaniel, Asset Manager *TKM*

DATE: September 2, 2021 for the September 15, 2021 meeting

RE: Staff Report updated from the February 4, 2020, board packet
Agricultural Land Sales 1977, 1981, 1982, and 1983
Farm Use Development Plan/Farm Use Plan

The following paper is updated from the February 2020 board packet, wherein the meeting was cancelled due to the pandemic.

At the December 2019 board meeting, during the review of the proposed policy and procedures for the former Title 13 agricultural land sale programs, staff discussed the farm use development plan (FDP) requirement that impacts each parcel. In order to finalize the draft policy and procedure, the farm use development plan should be addressed as implemented by the declaration of covenants or deed restrictions (depending on the year of the sale) since it is a “mandatory” requirement.

HISTORICAL BACKGROUND:

On May 16, 1995, the Agricultural and Forestry Advisory Board passed a motion unanimously, “to recommend to the assembly that when a landholder of any agricultural parcel has completed the farm plan requirement, and the financial obligation to the borough has been met and is given a quitclaim deed, etc., that they will not be required to file a farm plan with the borough.” However, assembly legislation was never presented to change to the overall procedure for the four agricultural programs. The intent was to preserve the agricultural lands and allow the farmer to benefit from the “flexibility and latitude to deviate and explore other agricultural applications and techniques without having to first seek borough approval.”

Past practice required the owner to request a release from a Farm Use Plan or Farm Use Development Plan (used interchangeably throughout the years) requirement. The Agricultural and Forestry Advisory Board would review the request and make recommendations to the assembly. If approved by an assembly ordinance, a notice was recorded in the appropriate recording district. Very few owners made the request to be released from the requirement.

Originally, 50 farm units were offered for sale in the four agricultural land sale programs under former Title 13. With subsequent subdivisions over the years, there are now 73 legal tracts of record (farm units and sub-farm units) according to MSB assessment records, for an estimated 46 owners. During my review of the various agricultural sales programs and individual files from the 1977, 1981, 1982, and 1983 agricultural land sale programs, it appears that most of the original owners completed the FDP requirements, but never requested a release. Furthermore, all borough contracts for the agricultural sale programs are paid and the borough conveyed quitclaim deeds.

At this point in time, and due to the age of the agricultural land sale programs, it would be costly and time consuming for a staff of one to inspect each farm unit/sub-farm unit and enforce a FDP that the borough has not manage since the mid 1990's. Staff consulted with the attorney's office for a type of instrument that was all encompassing to release the requirement of a FDP on each parcel. It was determined that it would need to be a recorded document for each individual parcel owner, as it was done in the past when an owner requested to be released from the FDP.

Therefore, I recommend the following:

1. Write a letter to each owner explaining the issue and get their feedback to find out if there is an interest to release the FDP requirement for a nominal fee in order to cover the recording fees (draft attached).
2. If a majority of the owners shows an interest, pursue legislation from the Agriculture Advisory Board to the assembly recommending approval to release the FDP requirements and waive the application fee.

Attached is a draft form for the Notice of Release from the Farm Development Plan that illustrates the type of instrument for recording.

Motion for the board to entertain: I move that staff send the current owners of the former Title 13 agricultural land sales a letter to see if there is an interest of a majority of the owner to release the farm use development plan requirement for a nominal recording fee.

Respectfully, Tracy

Tracy K. McDaniel, SR/WA, Asset Manager
Community Development Department | Land and Resource Management Division
350 E. Dahlia Avenue, Palmer, Alaska 99645
907.861.7864 Direct



MATANUSKA-SUSITNA BOROUGH

Community Development Department

350 East Dahlia Avenue • Palmer, AK 99645

Phone (907) 861-7869 • Fax (907) 861-8635

E-mail: lmb@matsugov.us

www.matsugov.us

[MONTH DAY], 2021

[NAME(S)]

[ADDRESS]

[CITY, STATE, ZIP]

Re: Borough Agricultural Rights Land Sales 1977, 1981, 1982 & 1983
Farm Use Development Plan requirement

Dear [MR./MRS. LAST NAME]:

You are receiving this letter as **[an owner/owners]** of an agricultural rights deed issued by the Matanuska-Susitna Borough (MSB) in either the 1977, 1981, 1982 or 1983 agricultural land sale program.

Through research of various agricultural sale files, minutes, and legislation, it was determined that a majority of owners never requested a release from their farm use development plan requirement. The farm use development plan requirement was implemented by declaration of covenants or deed restrictions, depending on the year of the land sale, as a “mandatory” requirement which could be released at the owner(s) request to the MSB Assembly.

As the landowner of an agricultural rights parcel, the MSB is inquiring if you would be interested in the MSB releasing this requirement at a cost of \$35 to \$45 for recording a Notice to Release the Farm Use Plan Requirement. If you are interested in participating in this process, please contact me at the phone number or email below by [MONTH DAY], 2020. Upon confirmation that a majority of owners show an interest in removing the requirement, I will prepare legislation for the MSB Assembly’s approval to release the requirement by a recorded document and request that no application fee is required, only a recording fee from the owner as noted above.

Please feel free to contact me with any questions.

Sincerely,

Tracy K. McDaniel, SR/WA | Asset Manager
Matanuska-Susitna Borough
Community Development Department
Land & Resource Management Division
350 E. Dahlia Avenue, Palmer, Alaska 99645
907.861.7864 (direct) | tracy.mcdaniel@matsugov.us (email)

2020/02/04 DRAFT

DRAFT

NOTICE OF RELEASE FROM THE FARM USE/DEVELOPMENT PLAN REQUIREMENT

NOTICE IS HEREBY GIVEN that the MATANUSKA-SUSITNA BOROUGH, a municipal corporation, whose address is 350 E. Dahlia Avenue, Palmer, Alaska 99645, **does hereby release** **[NAME(S)]** whose address of record is **[ADDRESS]**, including their successors and assigns, from the condition that their agricultural parcel shall be utilized in accordance with the farm use development plan/farm use plan, for the following described real property:

[INSERT LEGAL DESCRIPTION]

As set out by the Grantor, the Matanuska-Susitna Borough, in that certain Quitclaim Deed recorded on **[DATE RECORDED]**, at Book **[XX]** and Page **[XX]**, conveyed all agricultural rights in and to the surface of the property described herein, under the condition that the agricultural rights shall be utilized in accordance with the Grantee's farm use development plan/farm use plan.

As set out by Matanuska-Susitna Borough Assembly Ordinance Serial No. 2020-**XXX**, which allows the manager to release the **Grantee/Grantee's**, their successors and assigns, from the farm use development plan/farm use plan requirement on the above described lands.

THEREFORE, the Matanuska-Susitna Borough Manager does hereby release **[NAME]** from the requirement to utilize their agricultural parcel in accordance with the farm use development plan/farm use plan.

RELEASE from the farm use development plan/farm use plan **does not** release the **Grantee/Grantee's** from the Covenants, Conditions, and Restriction separately recorded nor from the requirement that the use of the property be for agricultural purposes and for maximizing the agricultural potential of the property and all other reservations, easements, covenants, conditions, restrictions, plat notes, and exceptions of record.

DATED this _____, day of _____, 20**XX**.

GRANTOR:

Matnauska-Susitna Borough

John Moosey, Manager

STATE OF ALASKA)
) ss.
Third Judicial District)

The foregoing instrument was acknowledged before me this _____, day of _____, 20**XX**, by JOHN MOOSEY, manager of the Matanuska-Susitna Borough, a municipal corporation organized and existing under the laws of the state of Alaska, on behalf of the corporation.

[NOTARY SEAL]

Notary Public for State of Alaska
My commission expires: _____

RETURN TO:
MSB/L&RMD
350 E. Dahlia Avenue
Palmer, Alaska 99645