

Introduced by: Mayor
Date: 11/02/99
Shortened Hearing: 11/16/99
Action: Enacted as Amended
Vote: 7 Yes, 2 No, 0 Absent

**KENAI PENINSULA BOROUGH
ORDINANCE 99-65**

**AN ORDINANCE AUTHORIZING A LEASE TO THE BOYS AND GIRLS CLUB
OF THE KENAI PENINSULA, HOMER BRANCH OF THE FORMER
HOMER INTERMEDIATE SCHOOL GYM AND FIRST FLOOR AT
OTHER THAN MARKET VALUE**

- WHEREAS,** the former Homer Intermediate School Facility is surplus to Borough needs; and
- WHEREAS,** the second floor of the former Homer Intermediate School Facility is leased to the University of Alaska, Anchorage pursuant to Ordinance 97-63; and
- WHEREAS,** the former Homer Intermediate School Facility was authorized for sale to the City of Homer at other than fair market value pursuant to Ordinance 98-42; and
- WHEREAS,** a quiet title action needs to be completed before the borough can convey the former Homer Intermediate School Facility to the City of Homer pursuant to Ordinance 98-42; and
- WHEREAS,** the former Homer Intermediate School Facility was authorized for lease to the City of Homer at other than market value pursuant to Ordinance 99-34 as a means of allowing the City of Homer to use the facility until the quiet title action is completed; and
- WHEREAS,** the City of Homer determined it is in the best interest of the City to wait to take over the buildings until quiet title action has been completed; and
- WHEREAS,** the Boys and Girls Club of the Kenai Peninsula, Homer Branch desires to occupy this facility at the earliest possible date to provide activities to support the youth of the southern peninsula; and
- WHEREAS,** a short-term lease of the gym and first floor of the former Homer Intermediate School facility to the Boys and Girls Club of the Kenai Peninsula, Homer Branch will allow it to provide its activities; and

WHEREAS, the Kenai Peninsula College and the Boys and Girls Club have agreed that a 50/50 split of facility utility charges is equitable based on the relative space each organization will occupy; and

WHEREAS, the Boys and Girls Club does not have sufficient funds available to pay their share of facility utility costs during the term of the lease, but has benefitted the borough by refurbishing the facility and will continue to maintain and refurbish it during their occupancy; and

WHEREAS, the Planning Commission at its regularly scheduled meeting of November 8, 1999 recommended approval of the report;

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

SECTION 1. The assembly finds that leasing the gym and first floor of the former Homer Intermediate School facility to the Boys and Girls Club of the Kenai Peninsula, Homer Branch is in the best interests of the public and the Borough. This finding is based on:

- a. The Boys and Girls Club of the Kenai Peninsula, Homer Branch will provide activities to support the youth of the southern peninsula which will also benefit the general public.
- b. The former Homer Intermediate School facility is surplus to Borough needs.
- c. The facility will be put to productive use.
- d. The Boys and Girls Club of the Kenai Peninsula has started to and will continue to repaint, clean and otherwise refurbish the facility, thereby improving its condition.

SECTION 2. Based on the foregoing the mayor is hereby authorized, pursuant to KPB Code of Ordinances 17.10.100 (I), to negotiate and enter into a lease at other than fair market value with the Boys and Girls Club of the Kenai Peninsula, Homer Branch for the gym and first floor of the former Homer Intermediate School facility located on a portion of the E 1/2 Section 19, T6S, R12W, S.M., Alaska.

SECTION 3. The negotiated lease shall contain the provision that the lease payment shall be ONE DOLLAR (\$1.00) per year, and that the lease shall terminate upon conveyance of the former Homer Intermediate School facility to the City of Homer pursuant to Ordinance 98-42 or six months from the execution of the lease, whichever occurs first.

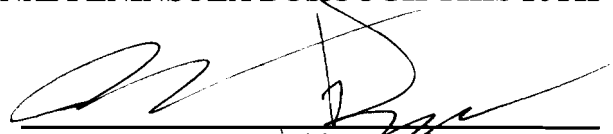
SECTION 4. The mayor is authorized to transfer sufficient funds from the Land Management budget account 250.21210.43011, contract services, to account 250.21210.43610, public utilities, and pay 50% of the facility utility costs on behalf of the Boys and Girls Club during the term of the lease.

SECTION 5. Pursuant to KPB 17.10.230, that the Assembly authorizes an exception to the requirements of KPB 17.10.090, Disposition of borough land; KPB 17.10.110, Notice of disposition; KPB 17.10.140, Lease Types; KPB 17.10.150, Lease-Terms and Conditions; and KPB 17.10.130(D), Conveyance of land based on the following facts:

- a. This is a conveyance for a public purpose.
 - (1) The former Homer Intermediate School parcel is not classified pursuant to KPB 17.10.080. Authorizing an exception to KPB 17.10.090 allows conveyance of the site without classifying the site. Classifying the site is a redundant step as the land is zoned public/government by the City of Homer.
 - (2) KPB 17.10.110, Notice of Disposition requires publishing notice of the sale four times in the thirty day period immediately preceding the date of the sale. This notice requirement is intended to make the public aware of an opportunity to purchase borough land and will not serve a useful purpose in this situation.
 - (3) KPB 17.10.130(D) requires that lands or interests in lands be conveyed by an instrument containing restrictions that restrict the use of land to that classification and prohibit use of the land for any other purpose. The City of Homer's zoning regulations provide adequate requirements on use of the former Homer Intermediate School site.
- b. An application and development plan are not necessary as the Boys and Girls Club does not plan to make capital improvements to the property, the borough's interests concerning their use of the premises will be protected in the lease agreement, and the borough's short-term plans are to convey the building to the City of Homer which may enter into its own lease relationship with the Boys and Girls Club.
- c. These exceptions are the most practical way to comply with the intent of KPB 17.10 without incurring unnecessary expense.
- d. The granting of these exceptions will not be detrimental to the public welfare and will aid the public health, safety, and welfare because the exceptions facilitate the use of the building for the beneficial use of the general public and fairly apportion responsibility for maintenance of the building among its occupants.

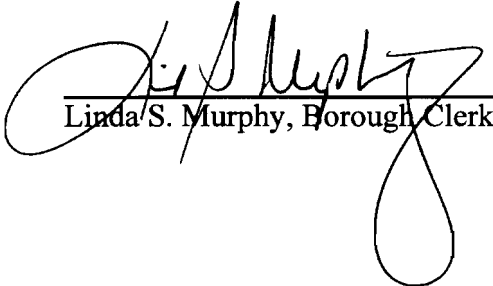
SECTION 6. This ordinance shall take effect immediately upon enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 16TH DAY NOVEMBER, 1999.



William Popp, Assembly President

ATTEST:



Linda S. Murphy, Borough Clerk

