

Introduced by:	Mayor
Date:	06/01/04
Hearing:	07/06/04
Action:	Enacted as Amended
Vote:	8 Yes, 0 No, 1 Absent

**KENAI PENINSULA BOROUGH
ORDINANCE 2004-18**

AN ORDINANCE AUTHORIZING THE LEASE OF GOVERNMENT LOT 1, ASLS NO. 2002-46, ACCORDING TO PLAT NO. 2003-6 SEWARD RECORDING DISTRICT AT OTHER THAN FAIR MARKET VALUE TO THE HOPE /SUNRISE VOLUNTEER FIRE DEPARTMENT

- WHEREAS,** the Kenai Peninsula Borough (KPB) owns Lot 1 of Alaska State Land Survey No. 2002-46, containing 5.86 acres, more or less, according to the survey plat recorded in the Seward Recording District as Plat 2003-6 by virtue of State of Alaska Patent No. 19249; and
- WHEREAS,** the Hope/Sunrise Volunteer Fire Department (HSVFD) has submitted an application for the lease of subject Lot 1 at other than fair market value; and
- WHEREAS,** the KPB and HSVFD have entered into a grant agreement, KPB Project No. 03BTG, in the amount of \$50,000; and
- WHEREAS,** the KPB Project No. 03BTG grant funds are designated for wildland fire response, including purchase of wildland fire fighting equipment, or for construction or renovation of facilities to protect equipment used for wildland fire response; and
- WHEREAS,** the lease will authorize construction of a heated garage facility to house fire department vehicles and equipment; and
- WHEREAS,** the September 1987 Community Land Use Plan for Borough Lands in Hope recommends that subject Lot 1 be used for a public safety and emergency service area site; and
- WHEREAS,** the KPB Planning Commission at its regularly scheduled meeting of June 14, 2004 recommended enactment by unanimous consent;

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

SECTION 1. That the Assembly authorizes leasing Lot 1 of Alaska State Land Survey No. 2002-46, containing 5.86 acres, more or less, according to the survey plat recorded in the Seward Recording District as Plat 2003-6 to the Hope/Sunrise Volunteer Fire Department (HSVFD) for an amount other than fair market value pursuant to KPB 17.10.120(D) based on the following findings of fact:

1. Lease for an amount other than fair market value is in the best public interest because:
 - A. The September 1987 Community Land Use Plan for Borough Lands in Hope recommends that subject Lot 1 be used for a public safety and emergency service area site.
 - B. The KPB and HSVFD have entered into a grant agreement, KPB Project No. 03BTG, in the amount of \$50,000, and land needs to be made available in order for HSVFD to utilize the funds.
 - C. The land described in this section is the best available and most appropriate location for the proposed use. Additionally, HSVFD is the most appropriate entity to administer such development.
 - D. There is not a fire service area in the Hope/Sunrise area and the land will be leased to provide an imperative public safety service within the borough.
 - E. A substantial improvement will be placed upon the property, which would revert to the borough in the event the lease is terminated. This increase in the property value at least partially offsets the less-than-value lease.

SECTION 2. That the Assembly additionally makes exception to KPB 17.10.090 requiring classification prior to transfer. This exception is based on the following findings of fact pursuant to KPB 17.10.230:

1. Special circumstances or conditions exist.
 - A. KPB 17.10.080(A) states, classification of property is for *review, plan implementation and management purposes*. The classification system designates the most appropriate uses for land and thereby guides borough management of such lands and implementation actions to provide for the identified uses.

Classification immediately prior to disposal of borough lands that have been specified for a certain use does not accomplish these purposes.

- B. The September 1987 Community Land Use Plan for Borough Lands in Hope recommends that subject Lot 1 be used for a public safety and emergency service area site; and
 - C. This ordinance accomplishes the purposes of KPB 17.10.080(A) by (1) review of subject Lot 1, (2) implementation of the recommendation of the September 1987 Community Land Use Plan for Borough Lands in Hope for subject Lot 1, and (3) management of subject Lot 1 by means of the proposed lease.
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 lease will not preserve a property right, however, it will support public health and safety through facilitating the objectives of the grant agreement (KPB Project No. 03BTG).
 - B. This ordinance authorizes subject Lot 1 to be leased to HSVFD on a non-competitive basis, at less than market value pursuant to KPB 17.10.100(I). Classification of subject Lot 1 pursuant to the provisions of KPB 17.10.080 will be redundant and not serve a useful purpose based on the findings of No. 1 above.
 - C. The exception to classification is the most practical means of complying with the code as the intent of the classification process has been satisfied by the land's recommended use as a fire station in the land use plan, and the lease will accomplish that goal without the need for the classification process, which will delay the lease and the project.
3. That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the area.
- A. Lease of subject Lot 1 to HSVFD is supported by the September 1987 Community Land Use Plan for Borough Lands in Hope.
 - B. Subject Lot 1 is suitable for the proposed purpose and is compatible with the adjacent land uses. A volunteer fire department is a desirable attribute to other property in the area.

SECTION 3. That the Assembly additionally makes exception to KPB 17.10.110 requiring notice of disposition. This exception is based on the following findings of fact pursuant to KPB 17.10.230:

1. Special circumstances or conditions exist.
 - A. The purpose of the KPB 17.10.110 advertising requirement is to notify the public of an opportunity to purchase or lease KPB land. Advertising this negotiated lease to HSVFD will not serve a useful purpose.
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 lease will not preserve a property right; however, it will support public health and safety through facilitating the objectives of the grant agreement (KPB Project No. 03BTG).
3. That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the area.
 - A. Subject Lot 1 is suitable for the proposed purpose and is compatible with the adjacent land uses. A volunteer fire department is a desirable attribute to other property in the area. Making an exception to KPB 17.10.110 requiring notice of disposition will not be detrimental to the public welfare or injurious to other property in the area

SECTION 4. That the Assembly additionally makes exception to KPB 17.10.240(L) requiring removal of improvements and KPB 17.10.240(M) requiring rental for improvements. These exceptions are based on the following findings of fact pursuant to KPB 17.10.230:

1. Special circumstances or conditions exist.
 - A. The KPB has patent to subject Lot 1.
 - B. The purpose of this lease is to authorize Lot 1 to be developed and used as a volunteer fire station.
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.

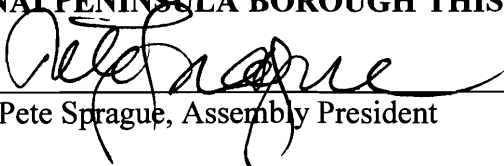
- A. fire station is a valuable asset to the KPB and community. The annual lease rental is \$1.00 in consideration of the services provided and the improvements being constructed on KPB land.
 - B. The KPB may not want the improvements and/or chattels to be removed upon termination or expiration of the lease. The KPB will determine if improvements and/or chattels should be removed or retained at time of termination of the lease depending on the nature of improvements and their condition.
 - C. The lease provides under Section III. 4 that improvements and/or chattels will revert to the KPB upon termination of this lease. Upon request, the lessee shall convey improvements and or chattels by appropriate instrument to the KPB for the purpose of clearing title.
3. That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the area.
- A. These exceptions will facilitate the continued use of the site as a fire station, which will benefit other property in the area.

SECTION 5. 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 Hope/Sunrise Volunteer Fire Department (HSVFD) for fifty years at \$1.00 per year subject to the terms and conditions of this ordinance. The authorization is for lease solely with the HSVFD and it may not assign any rights to negotiate or enter an agreement for lease to any other person or entity. This offer for negotiated lease shall remain open for a period of 90 days after adoption of this ordinance.

SECTION 6. The mayor is authorized to sign any documents necessary to effectuate this ordinance.

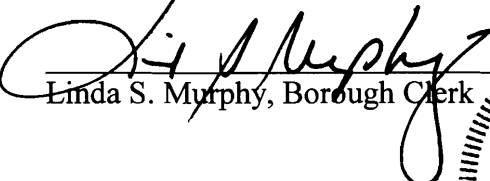
SECTION 7. That this ordinance shall take effect immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 6TH DAY OF JULY, 2004.



 Pete Sprague, Assembly President

ATTEST:



 Linda S. Murphy, Borough Clerk

