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| Introduced by:     | Mayor                 |
| Date:              | 05/05/09              |
| Shortened Hearing: | 05/19/09              |
| Action:            | Enacted               |
| Vote:              | 9 Yes, 0 No, 0 Absent |

**KENAI PENINSULA BOROUGH  
ORDINANCE 2009-28**

**AN ORDINANCE AUTHORIZING THE USE OF FUNDS APPROPRIATED IN  
ORDINANCE 2008-19-42 FOR OUTSIDE COUNSEL TO ADVISE THE BOARD OF  
EQUALIZATION AND BOARD OF ADJUSTMENT IN ADDITION TO THE NIKISKI  
BEACH ACCESS CASE COUNSEL**

**WHEREAS,** in Ordinance 2008-19-42, the assembly appropriated \$60,000 from the general fund to hire outside counsel to assist the legal department in representing the borough in the case of State v. OSK regarding beach access in the Nikiski area; and

**WHEREAS,** after Ordinance 2008-19-42 was enacted, the court rescheduled the OSK trial until July 27, 2009, which will be during the next fiscal year; and

**WHEREAS,** due to attorney fees incurred in board of adjustment hearings held this fiscal year, insufficient funds are now available to hire outside counsel to advise the board of equalization for appeals pending in May 2009; and

**WHEREAS,** this ordinance does not seek additional funds but requests authorization to use the funds appropriated in ordinance 2008-19-42 as needed for board of equalization and board of adjustment counsel as well as the attorney in the OSK case; and

**WHEREAS,** outside counsel is needed to advise the board of equalization and board of adjustment in order to protect the due process rights of the appellants;

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

**SECTION 1.** That the \$60,000 appropriated from the general fund to account No. 100.11310 .00000.43011 (contractual services) in Ordinance 2008-19-42 may be used to pay outside counsel to advise the board of equalization and the board of adjustment as well as the attorney in the State v. OSK case.

**SECTION 2.** That the mayor is authorized to enter into any agreement necessary to effectuate the intents and purposes of this ordinance.

**SECTION 3.** That this ordinance takes effect immediately upon its enactment.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 19TH DAY OF MAY, 2009.**

  
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Milli Martin, Assembly President

ATTEST:

  
\_\_\_\_\_  
Johni Blankenship, Borough Clerk



- Yes: Fischer, Knopp, Long, Pierce, Smalley, Smith, Sprague, Superman, Martin
- No: None
- Absent: None