

Introduced by: Mayor
Date: 04/19/05
Action: Adopted as Amended
Vote: 9 Yes, 0 No

**KENAI PENINSULA BOROUGH
RESOLUTION 2005-032**

**A RESOLUTION AUTHORIZING THE LEASE OF LOT 82, TYONEK TEACHER HOUSING
SUBDIVISION, ACCORDING TO KPB PRELIMINARY
PLAT NO. 2005-012, FROM THE TYONEK NATIVE CORPORATION FOR TEACHER
HOUSING IN THE NATIVE VILLAGE OF TYONEK**

WHEREAS, the Kenai Peninsula Borough School District (KPBSD) provides education services to the Native Village of Tyonek; and

WHEREAS, the KPBSD needs to provide housing for its teachers in Tyonek; and

WHEREAS, the Tyonek Native Corporation is willing to lease a site to the Kenai Peninsula Borough (KPB) for teacher housing; and

WHEREAS, the KPB is completing a subdivision plat to create the teacher housing site; and

WHEREAS, the KPB Planning Commission at its regularly scheduled meeting of March 28, 2005 recommended adoption of subject resolution by unanimous consent.

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

SECTION 1. That the Kenai Peninsula Borough is authorized to enter into a lease in a form substantially similar to the attached lease for Lot 82, Tyonek Teacher Housing Subdivision, according to KPB Preliminary Plat No. 2005-012, from the Tyonek Native Corporation for teacher housing.

SECTION 2. The lease shall be for a 40-year term with the rental rate being \$1.00 per year. The terms and conditions of the lease shall be in accordance with those of the accompanying lease agreement and the terms and conditions of this resolution.

SECTION 3. The expenditures for the lease will be charged to account number 100-01-4600-000-4410.

SECTION 4. That pursuant to KPB 17.10.080 (C), no land classification is proposed for this leased land.

SECTION 5. That pursuant to KPB 17.10.230, the assembly hereby authorizes exception to KPB 17.10.030 (C)(2) (requiring annual appropriation of funds) based upon the following findings of fact:

1. The following special circumstances or conditions exist:

A. KPB 17.10.030 (C)(2) states that a negotiated lease shall be subject to both approval of the terms and appropriation of funds each budget year. Each lease shall be deemed to have incorporated the following clause,

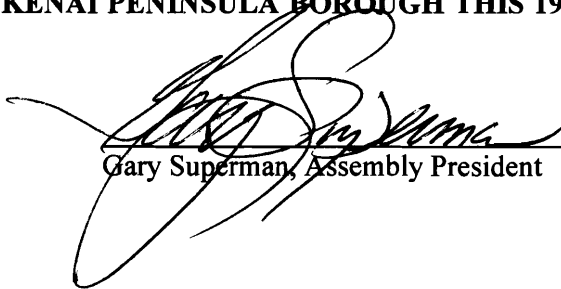
"Unless the assembly by resolution provides otherwise, this lease shall automatically terminate without penalty on June 30 of any year during which the Kenai Peninsula Borough assembly fails to appropriate funds sufficient to make the lease payments on the leased property for the following fiscal year";

- B. The annual rental rate of the proposed lease is \$1.00, which is such a nominal amount that sufficient funds will likely be appropriated.
 - C. The proposed lease provides that the KPB may terminate the lease upon 60 days' written notice to LESSOR.
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 KPB Chapter 17.10:
- A. Applying KPB 17.10.030 (C)(2) to this \$1.00 per year lease is not practical.
 - B. The subject lease can be entered into without consideration of an annual appropriation as sufficient funds will likely be appropriated into the land management budget.
3. That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the area:
- A. This exception will not affect the KPB or the KPBSD's decision to lease subject Lot 82 or to terminate the lease if necessary.

SECTION 6. That the mayor is authorized to execute all documents for a lease agreement substantially similar to the lease agreement submitted with this resolution, and to make all agreements deemed necessary in accordance with this resolution after the subdivision plat has been recorded

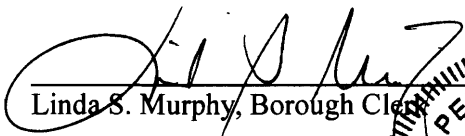
SECTION 7. That this resolution takes effect immediately upon its adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 19TH DAY OF APRIL, 2005.



Gary Superman, Assembly President

ATTEST:



Linda S. Murphy, Borough Clerk

