

Introduced by: Mayor
Date: 09/04/18
Action: Adopted
Vote: 9 Yes, 0 No, 0 Absent

**KENAI PENINSULA BOROUGH
RESOLUTION 2018-034**

**A RESOLUTION AUTHORIZING THE MAYOR TO OPT-IN TO THE CLASS ACTION
LAWSUIT OF *KANE COUNTY, UTAH V. UNITED STATES* TO RECOVER PAYMENTS
IN LIEU OF TAXES FOR FISCAL YEARS 2015, 2016 AND/OR 2017**

WHEREAS, *Kane County, Utah v. United States*, Case Nos. 17-739C and 17-1991C (“the Lawsuit”) is a class action lawsuit brought by a class of general local government units that received payments in lieu of taxes under the Payment in Lieu of Taxes Act (“PILT Act”) in fiscal years 2015, 2016 and/or 2017 which seeks to recover monies for the underpayment of PILT Act entitlement in fiscal years 2015, 2016 and/or 2017; and

WHEREAS, in order to recover funds owed the Kenai Peninsula Borough (“borough”) without filing its own lawsuit, the borough must submit a class action opt-in notice form prior to September 14, 2018; and

WHEREAS, it is estimated that the borough will recover approximately \$118,469 less about 33.3 percent for attorneys’ fees for a net recovery of around \$79,000.00; and

WHEREAS, the court has already determined that the federal government was obligated to pay eligible units of local government full amounts calculated by a formula in the PILT Act even though Congress failed to appropriate sufficient funds to pay these amounts in fiscal years 2015 through 2017; and

WHEREAS, the court has not yet determined the amount by which the class as a whole or individual class members were underpaid in those years, but class counsel and counsel for the government have agreed on the amount of underpayment in fiscal years 2015 and 2016 and expect to reach an agreement on the amount of the underpayment for fiscal year 2017; and

WHEREAS, if the borough does not join this action it would not receive any recovery from the lawsuit and would have to pursue its own separate case in order to recover any of these funds; and

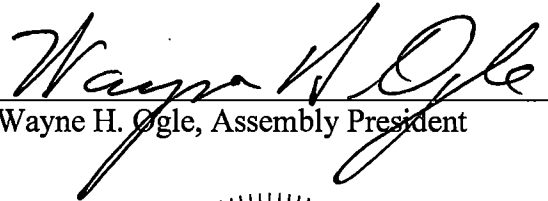
WHEREAS, the best interests of the borough would be served by participating in this class action;

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

SECTION 1. The mayor is hereby authorized to submit the necessary documents to opt-in to the *Kane* lawsuit on behalf of the Kenai Peninsula Borough;

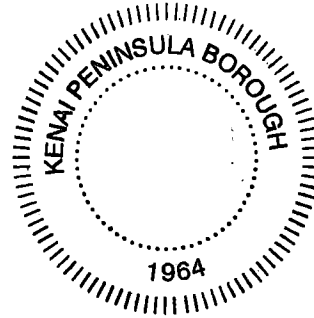
SECTION 2. That this resolution takes effect immediately upon its adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 4TH DAY OF SEPTEMBER, 2018.


Wayne H. Ogle, Assembly President

ATTEST:


John Blankenship, MMC, Borough Clerk



Yes: Bagley, Blakeley, Carpenter, Cooper, Dunne, Fischer, Hibbert, Smalley, Ogle
No: None
Absent: None