

Introduced by: Johnson at the Request of
the Borough Attorney
Date: 10/11/22
Hearing: 10/25/22
Action: Enacted
Vote: 9 Yes, 0 No, 0 Absent

**KENAI PENINSULA BOROUGH
ORDINANCE 2022-19-20**

**AN ORDINANCE APPROPRIATING \$100,000 TO THE LEGAL DEPARTMENT TO
COVER COSTS OF HIRING HEARING OFFICERS FOR PLANNING COMMISSION
APPEALS**

- WHEREAS,** in effort to provide for added consistency and professionally trained administrative law judges, the Kenai Peninsula Borough transitioned in 2021 to engaging the State of Alaska, Office of Administrative Hearings to serve as the hearing officer to adjudicate all administrative appeals from decisions of the planning commission; and
- WHEREAS,** the cost of these appeal hearings varies depending upon the complexity of the issues and the number of parties involved; and
- WHEREAS,** the cost of hearing officers are paid from the legal department's Legal Services account which is also used to pay for hiring of outside counsel in cases where a conflict of interest may exist; and
- WHEREAS,** it would be a conflict of interest for the Borough's Legal Department to serve as the hearing officer; and
- WHEREAS,** the unencumbered balance available in the legal department's Legal Services account is currently \$21,000;
- WHEREAS,** there are currently pending three appeals to a hearing officer from planning commission decisions; and
- WHEREAS,** it is estimated that additional funds of \$100,000 may be needed for appeals to the hearing officer from planning commission decisions; and
- WHEREAS,** moving forward it is anticipated that either the Borough's Legal Department or Planning Department will include estimated hearing officer costs in the annual budget; and
- WHEREAS,** in the interim is necessary to appropriate funds to retain a hearing officer in order provide due process for adjudication of administrative appeals from planning commission decisions;

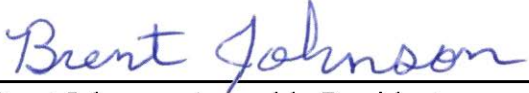
NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

SECTION 1. The sum of \$100,000 is hereby appropriated from the General Fund, fund balance to account 100.11310.23HOA.43034 Legal Services to fund the services of hearing officers in appeals from planning commission decisions and the hiring of outside counsel in situations where a conflict of interest may exist.

SECTION 2. That the appropriations made in this ordinance are of a project length nature and as such do not lapse at the end of any particular fiscal year.

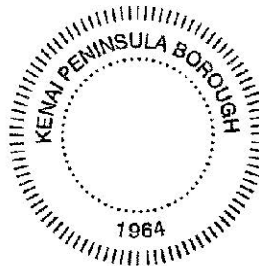
SECTION 3. That upon enactment this ordinance is effective retroactive to July 1, 2022.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 25TH DAY OF OCTOBER, 2022.


Brent Johnson, Assembly President

ATTEST:


John Blankenship, MMC, Borough Clerk



Yes: Bjorkman, Chesley, Cox, Derkevorkian, Ecklund, Elam, Hibbert, Tupper, Johnson
No: None
Absent: None