



October 6, 2022

Kenai Peninsula Borough Assembly
144 N. Binkley Street
Soldotna, Alaska 99669

Re: Approval of "Nikiski Area" Advisory Planning Commission

Dear Assembly Members:

Tyonek Native Corporation (TNC) is writing on behalf of the community of Tyonek to express its disapproval of the Kenai Peninsula Borough (KPB) Assembly recent decision to approve the "Nikiski Area" Advisory Planning Commission (APC) under Ordinance 2022-41. Tyonek is the largest community on the West Side of Cook Inlet. As the largest private landowner in the Tyonek area, TNC was not contacted nor invited to comment on a decision that directly affects its interests and the traditional lands of both our shareholders and the Tribal members of the Native Village of Tyonek. Moreover, the record demonstrates a complete lack of—let alone meaningful—West Side input and involvement. Nikiski and Tyonek are separate and distinct people, cultures, and businesses – not the basis for uniform planning.

Tyonek Tribal members and TNC shareholders have been independent from the Kenai Peninsula—and Nikiski—since before Alaska became a territory. Our ancestors used and occupied the Tyonek area for generations. Formal use and occupancy was not only recognized but established as early as 1915 when President Woodrow Wilson created the 25,000-acre Moquawkie Reservation. In 1971, the Alaska Native Claims Settlement Act extinguished the Moquawkie Reservation and made these lands available for selection by TNC. TNC received the surface estate of most of those lands. Both TNC and the Native Village of Tyonek have a long history of involvement with oil and gas activities and timber harvesting. Our people have been promoting and protecting our resources while pursuing economic development far earlier than the establishment of Nikiski or any of the area homesteads. In other words, we have been exercising self-determination and planning functions independently for centuries. We have been performing our own land use planning, land management, and economic development – the same functions as APCs. These efforts are current, proactive, and impactful to our community.

In addition to the KPB's failure to ensure reasonable and complete input into this decision, the expansive APC boundaries prove problematic and bear no relationship to

the actual “area of influence” of the petition organizers and the community of Nikiski. Furthermore, the boundary standards at KPB Code Section 21.02.040 fail to contain any meaningful standards whatsoever. A passing reference to “the area of influence” is arbitrary and capricious, and gives no guiding standards to consider and evaluate. Here, the result is an expansive and unprecedented area that goes so far beyond the “area of influence” of the Nikiski organizers. Thus, the APC should have been rejected immediately or drastically reduced in scope. References to the fire service area, senior service area, and recreation area are hollow references of support. The services provided to the West Side and Tyonek pale in comparison to the resources and services provided to Nikiski.

Given that the history and seeming intent of APCs is to give a community a local voice for planning decisions, Chapter 21.02 does not require any diversity of membership or residency within the boundaries of an APC – it merely requires that a nominee: (A) physically reside within the APC boundaries; and (2) be registered to vote in a precinct within the APC. Given that none of the petitioners are from the West Side, it is likely that none of the Commission members of the APC will reside in the West Side. Again, an arbitrary standard when applied to a region—not a community—like the “Nikiski Area” APC.

Through an August 11, 2022 Memorandum, the KPB Director of Planning identified concern raised at a community meeting about “the ability to meaningfully represent such a large area, particularly the west side of Cook Inlet.” The only other APCs represent distinct communities. These include Moose Pass, Hope, Cooper Landing, Anchor Point, Funny River, and others; not entire regions encompassing diverse areas and communities. Here, as evinced by the petition signatories (none of whom reside in Tyonek or the West Side) the imbalance of residents and political power rests entirely in Nikiski proper, leaving out the West Side of Cook Inlet to meaningfully participate in decisions affecting planning and zoning in Tyonek.

The August 11 memorandum also highlights that the Nikiski Area APC was 10 times larger than the size of the alternative proposal (3,500,000 acres vs. 307,400 acres). But even at 307,400 acres, that would be the largest APC in the Borough. In fact, the average size is just over 99,000 acres, with the smallest at a mere 1,505 acres for Hope. The adopted APC for the “Nikiski Area” is 35 times larger than the average APC. The record contains no justification for this egregious anomaly. In fact, it suggests what can only be viewed as an intentional effort to avoid the voice of the Tyonek area.

In consideration of the arbitrary and capricious inclusion of the West Side of Cook Inlet in Nikiski’s APC, TNC requests immediate reconsideration of the Assembly approval of the “Nikiski Area” APC. Given the significant shortcomings of the process, boundaries, and establishment of the Nikiski Area APC, TNC urges the Assembly, Administration, and Planning Commission to consider the problematic nature of the APC when applied to the West Side of Cook Inlet and community of Tyonek. Tyonek was not asked, and does not

support, the Nikiski petition and KPB adoption of the "Nikiski Area" APC. It stands against reason and logic to approve such an ill-conceived and underinformed planning area.

Sincerely,

TYONEK NATIVE CORPORATION

NATIVE VILLAGE OF TYONEK

A handwritten signature in black ink, appearing to read "Stephen Peskosky", with a long, sweeping horizontal stroke extending to the right.

Stephen Peskosky
Chief Executive Officer

A handwritten signature in blue ink, appearing to read "Johann Bartels", with a stylized, cursive script.

Johann Bartels
President

cc: Mayor Charlie Pierce
Sean Kelley, Borough Attorney
KPB Planning Commission